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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN-92-001]

RIN 0581-AA64

Revisions of User Fees for Cotton Classification, Testing and Standards; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule which was published Tuesday, June 23, 1992 (57 FR 27889). The final rule relates to the user fees charged for cotton classification, testing and cotton standards.

EFFECTIVE DATE: August 5, 1992.

FOR FURTHER INFORMATION CONTACT: Lee Cliburn, 202-720-3193.

SUPPLEMENTARY INFORMATION:

Background

The final rule that is the subject of these corrections affect members of the public who use the cotton classification services, cotton testing services and cotton standards provided by the Cotton Division of the Agricultural Marketing Service, U.S. Department of Agriculture. These services are provided under the Cotton Statistics and Estimates Act (7 U.S.C. 471-476) in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102-237, and the United States Cotton Standards Act (7 U.S.C. 51-65). The fees charged for the services provided were increased by the final rule, effective July 1, 1992.

Need for Correction

As published, the paragraph supporting the need for the final rule to be effective less than thirty days following publication in the **Federal Register** was inadvertently omitted. In addition, a typographical error was made in a table contained in the **SUPPLEMENTARY INFORMATION.**

Correction of Publication

Accordingly, the publication on June 23, 1992 of the final regulations, which were the subject of CN-92-001, is corrected as follows:

1. Under **SUPPLEMENTARY INFORMATION,** on page 27891, in the third column, item 13.1b, the current fee is $78.00.

2. Also under **SUPPLEMENTARY INFORMATION,** on page 27892, in the first column, the following paragraph is inserted prior to the **List of Subjects in 7 CFR Part 28.**

Pursuant to the provisions in 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the **Federal Register** because the effective date for the new fees is intended to coincide with the beginning of the harvest of new crop cotton. Accordingly, this rule is made effective July 1, 1992.

Dated: July 28, 1992.

Daniel Haley,

Administrator.

[FR Doc. 92-18429 Filed 8-4-92; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 28

RIN 0581-AA68

[CN-91-010]

Grade Standards for American Upland Cotton

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is revising the classification of cotton to provide for the separation of grade into its chief components of color and leaf. Each component will stand on its own so that its effect on end use value or processing capability can be fully and separately evaluated. The Advisory Committee on Universal Cotton Grade Standards met June 11 and 12, 1993, unanimously recommended this change in the application of the cotton grade standards. This final rule also eliminates the descriptive standards for Light Gray, Gray, and Plus grades, because they are no longer needed to describe special color and leaf combinations. For the same reason, the averaging rule is eliminated. No changes are being made in the fifteen (15) physical standards for grade of American Upland cotton. Fourteen of the twenty-nine (29) descriptive standards are eliminated, resulting in a cost savings. The Agency's ability to provide useful and cost-effective classification, standardization and market news services is enhanced by this final rule.

EFFECTIVE DATE: August 5, 1993.

FOR FURTHER INFORMATION CONTACT: Lee Cliburn (202) 720-3193.

SUPPLEMENTARY INFORMATION: A proposed rule detailing this change in the application of the cotton grade standards was published on May 20, 1992 in the **Federal Register** (57 FR 21358). A thirty-day comment period was provided for interested persons to respond to the proposed rule, and only one written comment, in support of the action, was received. The Advisory Committee on Universal Cotton Standards met during June 11 and 12 to consider the proposal in Memphis Tennessee, and the members voted unanimously to recommend that USDA adopt the proposal without any modifications. Therefore, this rule is being finalized as proposed.

This final rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be "non-major" since it does not meet the criteria for a major regulatory action as stated in the Order.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule does not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Administrator of AMS has certified that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act

(5 U.S.C. 601 *et seq.*). The changes do not impose any significant additional costs or duties upon users of the service or any other segment of the cotton industry and therefore do not have the requisite economic impact. Further, the standards are applied equally to all size entities by employees of the Department.

There are no information collection requirements contained in this final rule.

Pursuant to the United States Cotton Standards Act (7 U.S.C. 51 *et seq.*), any standard or change or replacement to the standards shall become effective not less than one year after the date promulgated. It is important that the changes in this final rule become effective with the beginning of the 1993 crop year on July 1, 1993, so that classification of the entire 1993 crop can be based upon the same application of the standards.

Background

Pursuant to the authority contained in the United States Cotton Standards Act, the Secretary of Agriculture maintains official cotton standards of the United States for the grades of American Upland cotton. These standards are used for the classification of American Upland cotton and provide a basis for the determination of value for commercial purposes.

The existing official cotton standards for the grades of American Upland cotton are listed and described in the regulations at (7 CFR 28.402–28.475). There are 15 physical standards represented by practical forms, and 29 descriptive standards for which practical forms are not made. Six of the descriptive standards describe the poorest quality cotton which make up the Below Grade classification (7 CFR 28.475).

The first grade standards for American Upland cotton were formally promulgated by USDA in 1914. They have been revised several times since, mainly because of changing varietal characteristics and advances in harvesting and ginning practices. The last complete revision of the standards became effective in 1987 (51 FR 23037).

Need for Revising Standards

The Secretary's Advisory Committee on Universal Cotton Standards unanimously recommended that the two major components of grade—color and leaf—be determined and recorded separately, beginning with the 1993 crop. Each component will stand clearly on its own so that its effect on end use value or processing capability can be fully and separately evaluated. Manufacturers will be able to decide the utility value of each component, and can send clear signals to producers by means of premiums and discounts.

The current grading system combines color and trash into composite grades, complicating the individual evaluation of these components. The separation of the composite grade into its chief components of color and leaf enhances USDA's ability to provide useful and cost-effective cotton classification, standardization, and market news services.

Revisions

The existing official cotton standards for the grades of American Upland cotton listed and described in the regulations at (7 CFR 28.402–28.480) are replaced by these standards.

There are 30 official cotton standards established by this final rule for color grades of American Upland cotton. Of these 30 standards, 15 are physical standards represented by the currently existing practical forms and 15 are descriptive standards for which practical forms are not made. The 15 physical standards for color grades each have the same color ranges as are currently maintained in the corresponding physical standards for the grades of American Upland Cotton for Good Middling, Strict Middling, Middling, Strict Low Middling, Low Middling, Strict Good Ordinary, Good Ordinary, Strict Middling Spotted, Middling Spotted, Strict Low Middling Spotted, Low Middling Spotted, Strict Good Ordinary Spotted, Middling Tinged, Strict Low Middling Tinged, and Low Middling Tinged described at 7 CFR 28.402, 28.403, 28.405, 28.407, 28.409, 28.411, 28.413, 28.431, 28.432, 28.433, 28.434, 28.435, 28.442, 28.443, and 28.444. Ten of the descriptive color standards for which practical forms will not be made have the same color ranges as currently described in the standards for the grades of American Upland cotton for Good Middling Light Spotted, Strict Middling Light Spotted, Middling Light Spotted, Strict Low Middling Light Spotted, Low Middling Light Spotted, Strict Good Ordinary Light Spotted, Good Middling Spotted, Strict Middling Tinged, Strict Middling Yellow Stained, and Middling Yellow Stained described at 7 CFR 28.420, 28.421, 28.422, 28.423, 28.424, 28.425, 28.430, 28.441, 28.451, and 28.452. The remaining five descriptive color standards for which practical forms are not made describe the poorest quality cotton and make up the Below Color Grade Standards. These below color grade standards are Below Good Ordinary Color, Below Strict Good Ordinary Light Spotted Color, Below Strict Good Ordinary Spotted Color, Below Low Middling Tinged Color, and Below Middling Yellow Stained Color.

Eight official cotton standards are established by this final rule for leaf grades of American Upland cotton. Of these, seven are physical standards represented by currently existing practical forms and one is a descriptive standard to describe the poorest quality cotton for which practical forms are not made. These seven physical standards for leaf grades each have the same leaf content ranges as currently maintained in the corresponding physical standards for the white grades of American Upland Cotton for Good Middling, Strict Middling, Middling, Strict Low Middling, Low Middling, Strict Good Ordinary, and Good Ordinary described at 7 CFR 28.402, 28.403, 28.405, 28.407, 28.409, 28.411, and 28.413. The descriptive Below Leaf Grade Standard is described as containing more leaf than Leaf Grade Standard 7.

For practical considerations, the white color standards and the leaf standards established by this final rule are represented by the same set of samples. There is one container for the Good Middling color that has leaf content of Leaf Grade 1, one container for Strict Middling color that has Leaf Grade 2, one container for Middling color that has Leaf Grade 3, one container for Strict Low Middling color that has Leaf Grade 4, one container for Low Middling color that has Leaf Grade 5, one container for Strict Good Ordinary color that has Leaf Grade 6, and one container for Good Ordinary color that has Leaf Grade 7.

Additionally, the containers for the physical standards for the Spotted color and the Tinged color standards established by this final rule shall have leaf content equivalent to that of the corresponding white standards. There will be one container for the Strict Middling Spotted color that has Leaf Grade 2, one container for Middling Spotted color that has Leaf Grade 3, one container for Strict Low Middling Spotted color that has Leaf Grade 4, one container for Low Middling Spotted color that has Leaf Grade 5, one container for Strict Good Ordinary Spotted color that has Leaf Grade 6, one container for Middling Tinged color that has Leaf Grade 3, one container for Strict Low Middling Tinged color that has Leaf Grade 4, and one container for Low Middling Tinged color that has Leaf Grade 5.

The table of symbols and code numbers used in lieu of cotton grade names in 7 CFR 28.525 are revised to reflect these changes.

In addition, authority citations are revised as appropriate.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Reporting and recordkeeping requirements, Warehouses.

For the reasons set out in the preamble, this final rule amends title 7, chapter I, part 28, subpart C, of the Code of Federal Regulations as follows:

1. The Table of Contents for § § 28.401 to 28.480 and the undesignated centerheads for those sections, as revised and added, now read as follows:

PART 28—[AMENDED]

Subpart C—Standards

* * * * * *

Official Cotton Standards of the United States for the Color Grade of American Upland Cotton

White Cotton

28.401 Good Middling Color.
28.402 Strict Middling Color.
28.403 Middling Color.
28.404 Strict Middling Color.
28.405 Low Middling Color.
28.406 Strict Good Ordinary Color.
28.407 Good Ordinary Color.

Light Spotted Cotton

28.411 Good Middling Light Spotted Color.
28.412 Strict Middling Light Spotted Color.
28.413 Middling Light Spotted Color.
28.414 Strict Low Middling Light Spotted Color.
28.415 Low Middling Light Spotted Color.
28.416 Strict Good Ordinary Light Spotted Color.

Spotted Cotton

28.421 Good Middling Spotted Color.
28.422 Strict Middling Spotted Color.
28.423 Middling Spotted Color.
28.424 Strict Low Middling Spotted Color.
28.425 Low Middling Spotted Color.
28.426 Strict Good Ordinary Spotted Color.

Tinged Cotton

28.431 Strict Middling Tinged Color.
28.432 Middling Tinged Color.
28.433 Strict Low Middling Tinged Color.
28.434 Low Middling Tinged Color.

Yellow Stained Cotton

28.441 Strict Middling Yellow Stained Color.
28.442 Middling Yellow Stained Color.

Below Color Grade Cotton

28.451 Below Color Grade Cotton.

Leaf Grades

28.461 Leaf Grade 1.
28.462 Leaf Grade 2.
28.463 Leaf Grade 3.
28.464 Leaf Grade 4.
28.465 Leaf Grade 5.
28.466 Leaf Grade 6.
28.467 Leaf Grade 7.

Below Leaf Grade Cotton

28.471 Below Leaf Grade Cotton.

General

28.480 General.

* * * * *

2. The undesignated centerheading following § 28.307 is revised to read as follows:

Official Cotton Standards of the United States for the Color Grade of American Upland Cotton

3. The authority citation for part 28, subpart C, Official Cotton Standards of the United States for the Color Grade of American Upland Cotton, is revised to read as follows:

Authority: Section 28.401 to 28.451 issued under Sec. 10, 42 Stat. 1519; (7 U.S.C. 61). Interpret or apply Sec. 6, 42 Stat. 1518, as amended; (7 U.S.C. 56), unless otherwise noted.

4. Sections 28.408, 28.409, and 28.410 are removed; § 28.401 is added immediately following the undesignated centerheading "White Cotton"; and §§ 28.402, 28.403, 28.404, 28.405, 28.406, and 28.407 are revised to read as follows:

White Cotton

§ 28.401 Good Middling Color.

Good Middling Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Good Middling, effective July 1, 1987."

§ 28.402 Strict Middling Color.

Strict Middling Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Middling, effective July 1, 1987."

§ 28.403 Middling Color.

Middling Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Middling, effective July 1, 1987."

§ 28.404 Strict Low Middling Color.

Strict Low Middling Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Low Middling, effective July 1, 1987."

§ 28.405 Low Middling Color.

Low Middling Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Low Middling, effective July 1, 1987."

§ 28.406 Strict Good Ordinary Color.

Strict Good Ordinary Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary, effective July 1, 1987."

§ 28.407 Good Ordinary Color.

Good Ordinary Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Good Ordinary, effective July 1, 1987."

5. Sections 28.411, 28.412, and 28.413 are revised; §§ 28.414, 28.415, and 28.416 are added; and an undesignated centerhead is added immediately preceding § 28.411 to read as follows:

Light Spotted Cotton

§ 28.411 Good Middling Light Spotted Color.

Good Middling Light Spotted Color is color which in spot or color, or both, is between Good Middling Color and Good Middling Spotted Color.

§ 28.412 Strict Middling Light Spotted Color.

Strict Middling Light Spotted Color is color which in spot or color, or both, is between Strict Middling Color and Strict Middling Spotted Color.

§ 28.413 Middling Light Spotted Color.

Middling Light Spotted Color is color which in spot or color, or both, is between Middling Color and Middling Spotted Color.

§ 28.414 Strict Low Middling Light Spotted Color.

Strict Low Middling Light Spotted Color is color which in spot or color, or both, is between Strict Low Middling Color and Strict Low Middling Spotted Color.

§ 28.415 Low Middling Light Spotted Color.

Low Middling Light Spotted Color is color which in spot or color, or both, is between Low Middling Color and Low Middling Spotted Color.

§ 28.416 Strict Good Ordinary Light Spotted Color.

Strict Good Ordinary Light Spotted Color is color which in spot or color, or both, is between Strict Good Ordinary Color and Strict Good Ordinary Spotted Color.

6. The undesignated centerheading preceding § 28.420 is revised; § 28.420 is removed; §§ 28.421, 28.422, 28.423, 28.424, and 28.425 are revised; and § 28.426 is added, to read as follows:

Spotted Cotton

§ 28.421 Good Middling Spotted Color.

Good Middling Spotted Color is color which is better than Strict Middling Spotted Color.

§ 28.422 Strict Middling Spotted Color.

Strict Middling Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Middling Spotted, effective July 1, 1987."

§ 28.423 Middling Spotted Color.

Middling Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Middling Spotted, effective July 1, 1987."

§ 28.424 Strict Low Middling Spotted Color.

Strict Low Middling Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Low Middling Spotted, effective July 1, 1987."

§ 28.425 Low Middling Spotted Color.

Low Middling Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Low Middling Spotted, effective July 1, 1987."

§ 28.426 Strict Good Ordinary Spotted Color.

Strict Good Ordinary Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary Spotted, effective July 1, 1987."

7. The undesignated centerhead preceding § 28.430 is revised; §§ 28.430 and 28.435 are removed; §§ 28.431, 28.432, 28.433, and 28.434 are revised to read as follows:

Tinged Cotton

§ 28.431 Strict Middling Tinged Color.

Strict Middling Tinged Color is color which is better than Middling Tinged Color.

§ 28.432 Middling Tinged Color.

Middling Tinged Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Middling Tinged, effective July 1, 1987."

§ 28.433 Strict Low Middling Tinged Color.

Strict Low Middling Tinged Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Low Middling Tinged, effective July 1, 1987."

§ 28.434 Low Middling Tinged Color.

Low Middling Tinged Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Low Middling Tinged, effective July 1, 1987."

8. The undesignated centerhead preceding § 28.441 is revised; §§ 28.441 and 28.442 are revised; and §§ 28.443 and 28.444 are removed to read as follows:

Yellow Stained Cotton

§ 28.441 Strict Middling Yellow Stained Color.

Strict Middling Yellow Stained Color is color which is deeper than that of Strict Middling Tinged Color.

§ 28.442 Middling Yellow Stained Color.

Middling Yellow Stained Color is American Upland cotton which in color is deeper than Middling Tinged Color.

9. The undesignated centerhead preceding § 28.451 is revised; § 28.451 is revised; and § 28.452 is removed to read as follows:

Below Color Grade Cotton

§ 28.451 Below Color Grade Cotton.

Below color grade cotton is American Upland cotton which is lower in color grade than Good Ordinary, or Strict Good Ordinary Light Spotted, or Strict Good Ordinary Spotted, or Low Middling Tinged, or Middling Yellow Stained. In cotton classification, the official designation for such cotton is Below Color Grade. The term Below Good Ordinary Color, or Below Strict Good Ordinary Light Spotted Color, or Below Strict Good Ordinary Spotted Color, or Below Low Middling Tinged Color, or Below Middling Yellow Stained Color and other additional explanatory terms considered necessary to describe adequately the condition of the cotton may be entered on classification memorandums or certificates.

10. An undesignated centerheading following § 28.451 is added to read as follows:

Official Cotton Standards of the United States for the Leaf Grade of American Upland Cotton

11. The authority citation for part 28, subpart C, Official Cotton Standards of the United States for the Leaf Grade of American Upland Cotton, is added, and the authority citation following § 28.482 is removed, to read as follows:

Authority: Sections 28.461 to 28.482 issued under Sec. 10, 42 Stat. 1519; (7 U.S.C. 61). Section 28.482 also issued under Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c) and 90 Stat. 1841–1846 as amended (7 U.S.C. 15b). Interpret or apply Sec. 6, 42 Stat. 1518, as amended; (7 U.S.C. 56), unless otherwise noted.

12. The undesignated centerheading immediately preceding § 28.460 is revised; § 28.460 is removed; §§ 28.461, 28.462, and 28.463 are revised; and §§ 28.464, 28.465, 28.466, and 28.467 are added to read as follows:

Leaf Grades

§ 28.461 Leaf Grade 1.

Leaf Grade 1 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States,

American Upland, Good Middling, effective July 1, 1987."

§ 28.462 Leaf Grade 2.

Leaf Grade 2 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Middling, effective July 1, 1987."

§ 28.463 Leaf Grade 3.

Leaf Grade 3 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Middling, effective July 1, 1987."

§ 28.464 Leaf Grade 4.

Leaf Grade 4 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Low Middling, effective July 1, 1987."

§ 28.465 Leaf Grade 5.

Leaf Grade 5 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Low Middling, effective July 1, 1987."

§ 28.466 Leaf Grade 6.

Leaf Grade 6 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary, effective July 1, 1987."

§ 28.467 Leaf Grade 7.

Leaf Grade 7 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Good Ordinary, effective July 1, 1987."

13. The undesignated centerheading preceding § 28.470 is revised; § 28.470 is removed; § 28.471 is revised; and § 28.472, § 28.473, the undesignated centerheading immediately preceding § 28.475, and § 28.475 are removed to read as follows:

Below Leaf Grade Cotton

§ 28.471 Below Leaf Grade Cotton.

Below leaf grade cotton is American Upland cotton which is lower in leaf grade than Leaf Grade 7. In cotton classification, the official designation for such cotton is Below Leaf Grade. Other additional explanatory terms considered necessary to describe adequately the condition of the cotton may be entered on classification memorandums or certificates.

14. Section 28.480 is revised to read as follows:

General

§ 28.480 General.

(a) American Upland cotton which in color is within the range of the color standards established in this part shall be designated according to the color standard irrespective of the leaf content. American Upland cotton which in leaf is within the leaf standards established in this part shall be designated according to the leaf standard irrespective of the color.

(b) The term preparation is used to describe the degree of smoothness or roughness with which cotton is ginned and the relative neppiness or nappiness of the ginned lint. Normal preparation for any color grade of American Upland cotton for which there is a physical color standard shall be that found in the physical color standard. Normal preparation for any color grade of American Upland cotton for which there is a descriptive color standard shall be that found in the physical standards for color used to define the descriptive color grade. Explanatory terms considered necessary to adequately describe the preparation of cotton may be entered on classification memorandums or certificates.

15. The authority citation for part 28, subpart C, Official Cotton Standards of the United States for the Grade of American Pima Cotton, is revised to read as follows:

Authority: Secs. 28.501 to 28.510 issued under Sec. 10, 42 Stat. 1519 (7 U.S.C. 61). Interpret or apply Sec. 6, 42 Stat. 1518, as amended (7 U.S.C. 56.)

Symbols and Code Numbers Used in Recording Cotton Classification

16. The authority citation for part 28, subpart C, Symbols and Code Numbers Used in Recording Cotton Classification, is added to read as follows:

Authority: Sec. 28.525 issued under Sec. 10, 42 Stat. 1519 (7 U.S.C. 61). Interpret or apply Sec. 6, 42 Stat. 1518, as amended (7 U.S.C. 56).

17. In § 28.525, paragraph (a) is revised, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), and a new paragraph (b) is added to read as follows:

§ 28.525 Symbols and code numbers.

* * * * *

(a) *Symbols and Code numbers used for Color Grades of American Upland Cotton.*

Color grade	Symbol	Code No.
Good Middling	GM	11
Strict Middling	SM	21
Middling	Mid	31
Strict Low Middling	SLM	41
Low Middling	LM	51
Strict Good Ordinary	SGO	61
Good Ordinary	GO	71
Good Middling Light Spotted.	GM Lt SP	12
Strict Middling Light Spotted.	SM Lt Sp	22
Middling Light Spotted	Mid Lt Sp	32
Strict Low Middling Light Spotted.	SLM Lt Sp	42
Low Middling Light Spotted.	LM Lt Sp	52
Stict Good Ordinary Light Spotted.	SGO Lt Sp	62
Good Middling Spotted	GM Sp	13
Strict Middling Spotted	SM Sp	23
Middling Spotted	Mid Sp	33
Strict Low Middling Spotted.	SLM Sp	43
Low Middling Spotted	LM Sp	53
Strict Good Ordinary Spotted.	SGO Sp	63
Strict Middling Tinged	SM Tg	24
Middling Tinged	Mid Tg	34
Strict Low Middling Tinged.	SLM Tg	44
Low Middling Tinged	LM Tg	54
Strict Middling Yellow Stained.	SM YS	25
Middling Yellow Stained	Mid YS	35
Below Grade—(Below Good Ordinary).	BG	81
Below Grade—(Below Strict Good Ordinary Light Spotted).	BG	82
Below Grade—(Below Strict Good Ordinary Spotted).	BG	83
Below Grade—(Below Low Middling Tinged).	BG	84
Below Grade—(Below Middling Yellow Stained).	BG	85

(b) Symbols and Code Numbers used for Leaf Grades of American Upland Cotton.

Leaf grade	Symbol	Code No.
Leaf Grade 1	LG1	1
Leaf Grade 2	LG2	2
Leaf Grade 3	LG3	3
Leaf Grade 4	LG4	4
Leaf Grade 5	LG5	5
Leaf Grade 6	LG6	6
Leaf Grade 7	LG7	7
Below Leaf Grade	BLG	8

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Dated: July 31, 1992.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 92-18621 Filed 8-4-92; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children (WIC) Participation and Homeless Individuals

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends an interim regulation, published December 14, 1989, governing the Special Supplemental Food Program for Women, Infants and Children (WIC), implementing the mandates of section 212 of the Hunger Prevention Act of 1988 (Pub. L. 100-435), enacted on September 19, 1988. The purpose of this rulemaking is to facilitate participation of otherwise eligible homeless persons in WIC. In accordance with the Act, this rulemaking defines "homeless individual" and specifically identifies WIC as a supplement to food assistance which may be provided by soup kitchens, shelters, and other forms of emergency food assistance. The definition of "homeless individual" specifies types of overnight facilities whose otherwise eligible residents must be granted access to WIC when caseload is available if such facilities meet conditions insuring that the individuals, not the facility, benefits from the program. The rulemaking also affords State agencies the option to extend WIC benefits to persons associated with other residential facilities, called "institutions," provided that the same conditions are met. Also pursuant to legislative mandates, the rule requires State agencies to include in their State plans a description of how they will provide Program benefits to, and meet the special nutritional and nutrition education needs of, homeless individuals; a plan for disseminating information about program availability and eligibility to organizations serving the homeless; and a plan to establish a homeless facility's or an institution's compliance with the three mandatory conditions.

These regulations further require that competent professional authorities take into account the special needs and problems of homeless individuals when prescribing supplemental foods. Finally, States may, under the final rule, request permission from the Food and Nutrition Service (FNS) to make substitutions for foods required in the food packages in order to accommodate the circumstances of the homeless.

EFFECTIVE DATE: September 4, 1992.

FOR FURTHER INFORMATION CONTACT: Ronald J. Vogel, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, room 540, Alexandria, Virginia, 22302, (703) 305-2746.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This final rule has been reviewed by the Assistant Secretary for Food and Consumer Services under Executive Order 12291, and has been determined to be not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Furthermore, this rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). Pursuant to that review, the Administrator of the Food and Nutrition Service has certified that this final rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

A number of reporting and recordkeeping burdens were included in the interim rule, published December 14, 1989, for Sections 246.4, 246.7(i), and 246.10. Those burdens were approved by OMB, under control number 0584-0382, for use through December 31, 1992. No changes in the reporting/recordkeeping burden have been incorporated into the final rule.

Executive Order 12372

The Special Supplemental Food Program for Women, Infants and Children (WIC) is listed in the Catalog of Federal Domestic Assistance Programs under 10.557 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and 48 FR 29114 (June 24, 1983)).

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any state or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "**EFFECTIVE DATE**" paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In this WIC Program, the administrative procedures are as follows: (1) Local agencies and vendors—State agency hearing procedures issued pursuant to 7 CFR 246.18; (2) applicants and participants—State agency hearing procedures issued pursuant to 7 CFR 246.9; (3) sanctions against State agencies (but not claims for repayment assessed against a State agency) pursuant to 7 CFR 246.19—administrative appeal in accordance with 7 CFR 246.22; and (4) procurement by State or local agencies—administrative appeal to the extent required by 7 CFR 3016.36.

Background

There have never been specific, direct regulatory barriers to the participation of homeless persons in the WIC Program, such as the need for a fixed address or a durational residency requirement. State agencies could, within the parameters of the regulations, accommodate the special needs of the homeless, e.g., by tailoring homeless participants' food packages to include, for example, ultra-high temperature (UHT) milk, which does not have to be refrigerated, or smaller, single-serving packages of cereal or juice. Current regulations also permit adaptations of food delivery systems, such as issuing more food instruments for smaller quantities of food to homeless participants, so that storage is not necessary.

Given the considerable latitude already available to States regarding service to the homeless, the enactment of Public Law 100-435 did not radically alter existing WIC Program operations. The statutory definition of "homeless individual" found at section 212(a) of Public Law 100-435 (Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) specifies the types of overnight

facilities in which homeless persons may stay and still be assured of eligibility for the WIC Program if they meet program requirements. Section 212(b) strengthens the long-held principle that WIC is to be a "supplemental" program by amending section 17(c) of the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1786(c)(1)) to provide that WIC "shall be supplementary to—(A) the food stamp program; (B) any program under which foods are distributed to needy families in lieu of food stamps; and (C) receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance." Taken in conjunction, the Department interpreted those amendments as a mandate that WIC is supplemental to the receipt of food assistance through specific types of overnight facilities generally designed to offer some degree of room, board, and services to homeless persons on a temporary basis. Thus, these regulations continue to provide that otherwise eligible homeless persons in specified types of facilities must be admitted to the WIC Program, to the extent that caseload is available at the local agency where they apply.

Pursuant to these legislative mandates, the Department published an interim rule (54 FR 51289) on December 14, 1989. The interim rule established definitions in § 246.2 for two basic types of facilities: (1) "Homeless facilities," whose otherwise eligible residents must be considered eligible for WIC, and (2) other types of residential accommodations, called "institutions," whose residents the State agency may serve, at its discretion. "Homeless facilities" are defined based on the legislative definition of "homeless individuals" specified in the Hunger Prevention Act of 1988. "Institutions" include more traditional types of residential, long-term accommodations such as rehabilitative or correctional facilities. In addition, § 246.7(m) of the interim rule required that both types of accommodations meet specific conditions in order for their residents to be served in WIC. Because the regulatory prohibition in § 246.12(o) against issuance of supplemental foods for use in institutions that serve meals was frequently misinterpreted, it was stricken by the interim rule. In its place, and consistent with the mandates and intent of Pub. L. 100–435, the interim rule incorporated into the Program regulations at § 247.7(m) the conditions from FNS Instruction 803–13 which ensure that WIC benefits are in fact supplemental for the participant: That the participant, rather than the "homeless facility" or "institution," gains from the program.

The interim rule provided for a 120-day comment period, which ended on April 13, 1990. During that period, a total of 38 comments were received from a variety of sources, including State and local WIC agencies, other State and local agency staff members, homeless shelter staff, and professional organizations. The Department would like to thank all of the commenters who responded to the interim rule. Their comments proved particularly helpful in formulating this final rule.

The remainder of this preamble discusses the major concerns expressed by commenters regarding each provision of the interim rule and explains the reasoning behind the decisions embodied in this final rule. Provisions on which no comments were received and no changes were made are not addressed in the preamble and remain as published in the interim rule.

1. Definitions

a. *Homeless facility.* As indicated above, the interim rulemaking established conditions (§ 246.7(m)(1)(i)) which residential accommodations with meal service must meet in order for their residents to be served in WIC. These conditions were intended to ensure that program benefits accrue to the WIC participant and not to the homeless facility or institution. There was no need to apply these conditions to private residences or to residential accommodations without meal service since these living arrangements would not generally preclude a participant from receipt of benefits under the same terms and conditions as any other participants.

The accommodations to which the conditions of § 246.7(m)(1)(i) do apply are those where there is inherent risk that Program participants would not receive the benefits to which they are entitled. Such accommodations are divisible into those whose residents must, in keeping with the mandates of Public Law 100–435, be served if they meet program eligibility requirements and caseload is available ("homeless facilities"), and those whose residents may, at the State's discretion, be served ("institutions"). The regulatory definition of "homeless facility" (§ 246.2) derives from the statutory definition of "homeless individual" found at section 212(a) of Public Law 100–435 and means any of the following facilities which provide meal service: A supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations; a facility that provides a temporary residence for individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. This definition includes all of the facility types referenced under the legislative definition of "homeless individual" except "a temporary accommodation in the residence of another individual." This latter category was excluded in the interim rule because, as explained above, the conditions of § 246.7(m)(1)(i) do not need to be applied to private residences. Persons in these situations receive WIC benefits under the same terms and conditions as any other applicant; that is, there is minimal or no inherent likelihood that the participant living in this situation would not benefit directly from WIC, whereas such a possibility is likely in an institutional or homeless facility setting.

Three commenters indicated that additional clarification was needed regarding the definition of "homeless facility" relative to the exclusion of the statutory reference to private residences. All three commenters observed that temporary accommodation in other people's homes is a common method of obtaining shelter for homeless individuals, and asked that the final rule specifically address the treatment of such individuals as potentially eligible WIC participants. However, this living arrangement does not in and of itself have a bearing on program eligibility. Income eligibility in WIC is based on income and economic relationships of people residing together. Public Law 100–435 did not establish different income eligibility standards for homeless persons.

These same commenters also expressed concern about the absence of a definition of "temporary" in the context of a private residence. Again, since persons who stay in private residences participate in WIC under the same terms and conditions as all others, the issues of how long or how temporary their stay will be are not at all relevant to their receipt of WIC benefits. Thus, there is no need for the Department to define "temporary" in this context.

One commenter requested that the definition of "homeless facility" be clarified by the inclusion of a definition of "meal service." The Department was asked to specify a minimum number of meals which a facility must provide in order to be considered as providing a legitimate meal service. The real issue underlying the concept of meal services for residents of homeless facilities/institutions is whether that facility or

institution is providing foods in a manner which could result in the institution or nonparticipants benefiting from the WIC foods regardless of the frequency or quantity of food services offered. It is impracticable to list every possible type of meal service in order to determine whether the requirements of § 246.7(m)(1)(i) should be applied to a given facility. State agencies will have to decide, on a case by case basis, whether or not there is potential for nonparticipants to gain access to WIC foods, or for the facility or institution to benefit from WIC at the expense of the participant. Therefore, "meal service" is not defined in the final rule.

Finally, one commenter requested that the phrases, "a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings," and "a facility that provides a temporary residence for individuals intended to be institutionalized," be clarified in the final rule by providing examples. For purposes of clarification, some of the many types of situations that would fall under this category of homeless facilities are identified in this preamble. The following are offered as illustrations of places not designed for, or ordinarily used as, regular sleeping accommodations for human beings and include, but are by no means limited to, stairwells, park benches, deserted (often condemned) buildings, and automobiles. In regard to facilities providing a temporary residence for individuals intended to be institutionalized, many of the more structured institutions, such as rehabilitation centers or correctional facilities (prisons), as well as some homeless facilities (welfare hotels or battered women's shelters) do not serve people on a simple walk-in basis. In order to accommodate such individuals until all of the necessary paperwork can be completed or until a vacancy occurs, a number of intermediate facilities have been established. As with "regular" homeless facilities and institutions, these intermediate facilities may vary widely in terms of the services provided and the length of time someone may stay there. Definitions of the above phrases are not added to the final rule because the Department could not possibly capture all such situations.

For reasons discussed above, the definition of "homeless facility" is adopted as final without change.

b. *Other Definitions.* The definitions of "institution," "family," and "homeless individual" set forth in the interim rule were not addressed by any commenters. Therefore, all three definitions are adopted as final without change.

2. State Plan Amendments (Section 246.4(a))

The interim rule established several additional requirements for the annual State Plan, which are summarized as follows: (1) A description of how the State agency will provide program benefits to, and meet the special nutrition education needs of, homeless participants; (2) a plan for the annual public announcement and distribution of information on the availability of program benefits to organizations and agencies serving homeless individuals; (3) a description of the State's plans (if any) to adapt methods of delivering benefits to accommodate the special needs and problems of homeless individuals; and (4) a description of the process by which the State agency will ensure that homeless facilities and, if the State opts to include them, institutions serving otherwise eligible WIC applicants can satisfy the conditions established in § 246.7(m)(1)(i).

The first three of the required State plan amendments are mandated by Section 212(c) of Pub. L. 100–435. None of the comments received on the interim rulemaking addressed the first two of them specifically. Therefore, those two requirements found at §§ 246.4(a)(6) and (a)(4) are adopted as final without change.

Three commenters did object, however, to the requirement (§ 246.4(a)(19)) for a description of the State agency's plan to ensure compliance with the conditions stipulated for homeless facilities/institutions in § 246.7(m)(1)(i). All three indicated that the term "ensure" implies an onerous enforcement burden for State agencies. They also pointed out that compliance with the conditions is entirely voluntary on the part of the homeless facility or institution, which does not directly benefit from compliance.

The Department did not intend that State agencies conduct exhaustive on-site compliance reviews of such facilities. Rather, States should take appropriate compliance measures, based on the number and location of such facilities, demands on their administrative resources, food service arrangements, and other variables. State agency efforts in this area will be subject to Federal review as part of the Management Evaluation process. In recognition of the fact that different procedures and levels of effort will be appropriate depending upon the circumstances, the State Plan requirement will be modified to mandate that the State agency describe the process by which it will establish, to the extent practicable, that homeless facilities, and institutions if it chooses to make the program available to them, meet the three conditions established in § 246.7(m)(1)(i).

Finally, as to the fourth requirement concerning modification of benefit delivery systems to meet the needs of homeless persons, one commenter proposed that States be required to describe in their procedure manuals any new policies on food delivery procedures or on tailoring food packages implemented to meet the special needs and circumstances of the homeless, in addition to including such policies and procedures elsewhere in the State Plan. While the Department concurs that the procedure manual is a logical place to include this information, it is not necessary to regulate a step which should be taken as a matter of course, in order for a State agency to implement these provisions effectively at the local level. Therefore, the final regulation remains as stated in the interim rule.

3. Conditions Applicable to Homeless Facilities and Institutions (Section 246.7(m)(1)(i))

a. Implementation. The interim rule established in § 246.7(m)(1)(i) the following conditions, which must be met by homeless facilities and institutions that have any type of food service in order for their residents to participate in WIC:

(1) The accommodation does not accrue financial or in-kind benefit from a person's participation in the program;

(2) Foods provided by WIC are not subsumed into a communal food service, but are available exclusively to the WIC participant for whom they were issued;

(3) Institutional proxies do not, as a standard procedure, pick up food instruments for all program participants in their accommodations or transact the food instruments in bulk; and

(4) The accommodation places no constraints on the ability of the participant to partake of the supplemental foods and nutrition education available under the program.

Of the 38 comments received addressing the interim rule on participation of homeless individuals in WIC, 25 perceived these conditions as a barrier to Program participation and as creating an environment for inequitable treatment. In spite of the preponderance of comments to this effect, the Department still believes that regulatory conditions must be established to ensure, as mandated by Public Law 100–435, that WIC benefits supplement the participant's diet rather than replace

food which a homeless facility or an institution would otherwise provide, and that a homeless person's ability to participate fully in WIC is protected. Not only is this mandated by Pub. L. 100–435, it is a basic tenet of WIC Program design.

The Department must emphasize that the conditions are, and have always been, intended for the protection of the WIC participant residing in a homeless facility or in an institution. The WIC food package is intended for exclusive consumption by the participant; subsuming the WIC foods into the facility's general food service would afford the participant no discernible dietary advantage, because the WIC foods intended to improve that individual's health or nutritional condition would be dispersed among the facility's residents. Thus, the facility and its non-WIC residents would gain at the expense of the WIC participant for whom the foods were intended. Rather than erecting a barrier to program participation, the conditions ensure that the program retains its full potential to make a positive difference in the lives of individual participants in institutional settings. Instead of creating an environment for unequal treatment, these conditions ensure an environment for equal treatment. The conditions permit WIC participants in homeless facilities and institutions to have the same opportunity as other program participants to benefit fully from WIC participation. Finally, the conditions ensure that benefits are directed only to eligible persons as intended.

Comments also identified ambiguity in the third condition stipulating that "Institutional proxies do not, as a standard procedure, pick up food instruments for all program participants in their respective homeless facilities or transact the food instruments in bulk" § 246.7(m)(1)(i)(C)). In response to public comments, the Department has reexamined all four conditions in order to be sure that they do in fact protect WIC participants without creating barriers to participation in the Program. Upon reconsideration, it has been determined that the condition regarding the use of institutional proxies may create an unnecessary obstacle. Therefore, this condition has been deleted from the final rule, and 246.7(m)(1)(i) has been amended accordingly. State agencies should be careful, however, to ensure that adult participants are allowed to participate in the process of picking up and transacting their food instruments to the greatest extent possible, within the institutional framework, so that they are aware of the foods prescribed for them as well as the intended benefits of such foods.

b. Establishing compliance. Perception of the conditions as barriers to participation may have been influenced by an overestimation of the difficulty homeless facilities and institutions would encounter in complying with the conditions. Four commenters voiced the concern that homeless facilities and institutions might be reluctant or unable to change their mode of operations in order to be in compliance with the conditions. When establishing compliance with these conditions, State and local agencies should be aware that the facility or institution does not have to alter its standard procedures for all residents in order to be in compliance.

Rather, the facility can vary from its usual practices so as to meet the three conditions with respect only to residents who are also WIC participants or applicants. Sections 246.7 (m)(1)(i) and (m)(2) are amended in the final rule to provide this clarification. The Department expects that most homeless facilities or institutions will be willing to make certain exceptions to their standing rules or procedures in order to accommodate WIC participants.

Homeless facilities/institutions must meet the three requirements of § 246.7(m)(1)(i) (as amended in this final rule) in order for WIC participants to receive full benefits of the program. However, the homeless facilities/institutions themselves do not receive any program funds or provide program services. Further, they do not stand to benefit directly from the WIC participation of their residents, nor are they subject to any legal liability for failure to comply with the conditions. Thus, unlike the relationship between the State agency and its vendors and local agencies, the State's relationship with homeless facilities/institutions is informal rather than contractual. It does not entail an application process or appeal procedure, nor does it carry with it any specific monitoring requirements. Consistent with this attitude, problems encountered with individual homeless shelters or institutions may be resolved with as little formality as possible, e.g., through a telephone call as opposed to a structured review.

However, the State or local agency must develop a reasonable way of determining that a homeless facility or institution meets the requisite conditions. As indicated earlier in this preamble, the Department does not anticipate an excessive amount of difficulty in this area, and expects that facilities not meeting the conditions or not willing to change to make the necessary exceptions for WIC participants will be more the exception than the general rule.

Twenty-two commenters expressed concern over the difficulty and administrative inconvenience State and local agencies may experience in determining compliance by a homeless facility or an institution. To address these concerns, the Department has amended the regulatory language pertaining to homeless facility/institutional compliance. Specifically, rather than stating that the State or local agency must "confirm" compliance, as stipulated in § 246.7(m)(1)(i) of the interim rulemaking, this final rule requires that the State or local agency "establish, to the extent practicable," compliance with the three conditions. Additionally, whereas §246.7(m)(1)(iii) of the interim rule required a homeless facility or institution to advise the State or local agency of its lack of compliance with the conditions in § 246.7(m)(1)(iii) of the final rule, facilities and institutions are requested to provide such notification. This change is made in acknowledgment of the fact that the relationship between the State or local agency and the homeless facility or institution is informal rather than contractual. The procedure of securing a written statement of compliance from the homeless facility/institution described in the preamble to the interim rule was provided as an example, not as a mandatory implementation procedure. State or local agencies may choose to determine compliance through means that do not include such a statement.

4. Short-Term Certificate Option (Section 246.7(m)(4))

In an effort to further facilitate timely access to WIC for homeless persons, the interim rule provided for short-term certifications prior to the State's establishing that the homeless facilities or institutions in which they reside met the conditions of § 246.7(m)(1)(i). Under § 246.7(m)(4) of the interim rule, the State agency could authorize or require its local agencies to certify, for a period of up to 60 days, persons residing in homeless facilities or institutions whose compliance with any of the conditions had not yet been determined. During this period, the State or local agency was expected to determine if the homeless facility/institution was willing and able to meet the conditions for its WIC-eligible residents. If compliance was established within the 60-day period of short-term certification, the person's certification period was extended to the

standard length for other persons in the same category, i.e., pregnant women, infants, etc. In the event that the homeless facility/institution did not meet the conditions, the State or local agency was expected to provide timely information to the participant about any other accommodations for the homeless in the area which met the conditions. The participant was then either disqualified or required to relocate to a compliant accommodation.

If a homeless facility or institution proved not to be in compliance with the conditions, or if it became known that such an accommodation initially determined to be compliant no longer met these conditions, § 246.7(i)(6) of the interim rule required that all WIC participants residing in it receive 30 days' notice of the need to sever connection with the homeless facility or institution in order to continue participating in WIC. Section 246.7(m)(4) of the interim rule provided special consideration to persons who became homeless during their certification periods and took up residence in noncompliant homeless facilities or institutions. Unlike persons who were homeless at the time of WIC certifications, these persons were permitted to participate to the end of their certification periods.

Fourteen commenters addressed the short-term certification option; all of them opposed it. The commenters contended that homeless participants whose shelters are not willing to comply with the Department's conditions are unfairly penalized for circumstances beyond their control. Eleven comments focused on the discrepant treatment of WIC participants who were homeless at the time of application and those who became homeless after their certification periods had begun. Another five comments addressed the administrative burdens imposed on local agencies by requiring them to disqualify residents of noncompliant facilities and/or institutions at the end of 60 days.

The Department believes that provision of WIC foods for a resident of a homeless facility or an institution which does not or cannot assure that the WIC foods will not be subsumed into the general meal service provided by the facility (or meet the other two conditions) would be of little or no benefit to the participant, whereas these foods could otherwise make a significant difference in the health and nutritional status of a participant not residing in a noncompliant accommodation. If the participant in the homeless facility does not receive any more food than s/he would if s/he were not a WIC participant, then the food benefit of the WIC Program has been misused. On the other hand, the Department acknowledges that WIC is not just a food supplement for low-income women, infants, and children. Participants also benefit from nutrition education and health care referrals.

The Department believes that noncompliant facilities will generally prove to be the exception rather than the rule. State and local agencies are encouraged to contact such facilities directly in an effort to determine whether some sort of accommodation can be made for the WIC participants who are staying there, keeping in mind that the purpose behind the conditions is primarily to ensure that WIC benefits are issued responsibly to those most in need of them, and that participants have full and free access to such benefits. For purposes of clarification, § 246.7(m)(3) has been modified to delineate the specific circumstances under which homeless persons shall be certified to receive WIC benefits for a full certification period; and new §§ 246.7(m) (4)–(6) have been added to delineate the conditions under which persons applying for continued benefits may be subsequently certified.

The Department acknowledges, however, that instances may occur when a noncompliant facility is the only option available to a homeless applicant. Rather than place the applicant in the untenable situation of having to choose between a place to sleep and receiving WIC benefits, the Department has amended § 246.7(m)(3) in the final rule to stipulate that persons in homeless facilities or institutions whose compliance with the three conditions had not been determined prior to their date of certification shall be enrolled for one full certification period. This revision should also eliminate the "double standard" for persons who are homeless at the time of certification and those who become homeless after their certification period has begun.

The participant should, during the course of that initial certification period, be alerted to the need for alternative arrangements before subsequent certifications can be made. A new § 246.7(m)(4) has been added to provide that if such arrangements are not possible by that time, no further WIC food benefits—except infant formula—may be issued to that participant for subsequent certifications (unless the participant vacates the homeless facility or institution or it subsequently becomes compliant). Thus, at the State agency's discretion, persons living in facilities/institutions found to be noncompliant may continue to receive nutrition education and referral services even if they choose not to relocate.

Infant formula is exempted from the prohibition against further food issuance because it is not among the foods characteristically purchased by homeless facilities and institutions, can easily be stored separately from other foods, and does not lend itself to use in communal meal service. Therefore, it is likely to be used exclusively by the participant regardless of the institution's meal service procedures, and not likely to have been supplied by the institution in the absence of WIC.

It should further be noted that this provision would ease the administrative burden on local agencies which would otherwise have to disqualify such participants if their accommodation were found to be noncompliant with the three conditions. However, under existing regulations, such persons do have the right to appeal the discontinuation of food benefits. For consistency, § 246.7(i)(6) is revised in the final rule by deleting the 30-day advance notice provision for residents of noncompliant homeless facilities/institutions.

5. State Option to Serve Persons in "Institutions" (Section 246.7(m)(2))

Only one comment was received related to the State option to serve otherwise eligible persons residing in "institutions." The commenter expressed concern that State agencies would be unduly pressured into serving residents of institutions, who generally have access to regular meal services, thereby diminishing the availability of WIC benefits to those most in need, i.e., regular participants and otherwise eligible residents of homeless facilities. The Department believes that individual State agencies are in the best position to make the decision on whether or not to serve otherwise eligible residents of institutions such as correctional facilities or residential drug/alcohol rehabilitation centers. Therefore, no change is made to this provision in the final rule.

6. Food Package Adaptations for Homeless Participants (Section 246.10(e))

The interim rule amended § 246.10(e) not only to allow (and even encourage) State agencies to explore creative approaches to food package adaptations for homeless participants within the existing parameters of the regulations, but also to allow States to submit plans, which may include elimination or

substitution of specific foods, for food packages intended to address the specific needs of individual homeless participants. The Department will approve alternatives for homeless persons only if fully justified and directed only to homeless individuals in special circumstances, such as those without consistent access to facilities for sanitary food storage, preparation, and service, and only after all alternatives within existing food package regulations have been exhaustively explored.

A total of six comments addressed the adaptations to the regular WIC food package which may be needed by homeless participants. Two commenters suggested that the current process for obtaining FNS approval to adapt the food packages could be costly as well as burdensome, and as such, might act as a deterrent to States which might otherwise consider making such adaptations; two commenters were concerned about the potential for increasing WIC food package costs through the use of foods such as UHT milk or single-serving containers of cereal or juice; and the remaining two comments were in support of the provision as written.

The Department does not believe that the requirement to obtain FNS approval prior to eliminating or substituting specific foods in order to tailor WIC food packages more directly to the special needs and circumstances of homeless participants is an excessively burdensome one. Given the latitude and variety already existent in the food package design, current WIC food packages should be sufficiently flexible in most instances to meet the special needs of homeless persons. As in the case of adaptations to accommodate cultural eating patterns, however, there may be instances in which still greater flexibility in food packages may be warranted and the only feasible substitution is not currently allowed. Adaptations which involve substitution or elimination of specific foods beyond the latitude already provided in WIC regulations would have to be approved by FNS. Requests for approval should describe the substitution or elimination proposed, the special circumstances which lead the State to believe the substitution or elimination to be advisable, and the avenues already explored, within the parameters of WIC food package regulations, which have proved to be infeasible or ineffectual in meeting the needs of participants in the specified circumstances. The approval process now affords States even greater latitude in providing foods in forms which will be most beneficial to their participants. The approval requirement simply entails submitting to FNS information and analysis which the State agency would already have gathered and completed in the process of determining what substitutions or eliminations are best suited to the needs of its homeless participants. Furthermore, FNS is committed to the timely consideration of all such requests. Therefore, no change in the requirement to obtain FNS approval for substitutions and eliminations of foods which cannot be accomplished within the parameters of the current WIC regulations has been made in the final rulemaking.

Section 246.10(e)(1) of the interim rule inadvertently referred only to food package adaptations made to accommodate homeless persons, i.e., residents of homeless facilities. Similar adaptations may also be appropriate for residents of institutions, in the event that the State agency has opted to make WIC benefits available to such institutions. To correct this technical oversight, § 246.10(e)(1) is amended in the final rule to include residents of institutions, at the State's discretions, as well as homeless individuals for whom adaptations may be made to accommodate special storage or other logistical problems.

In regard to the concerns expressed over the significantly higher costs of food items selected to meet the needs of homeless participants, the Department is aware that ready-to-feed infant formula, smaller packages of juice or cereal, and UHT milk are more expensive than the items normally provided in a WIC food package. However, the Department has always emphasized the importance of tailoring food packages to meet the particular needs of each participant, and allowing the purchase of special formulas when medically warranted. While the basic food packages have been designed to meet the nutritional needs of most participants, they are not always appropriate for all participants. Congress recognized that homeless participants have particular needs and problems which are more frequently beyond their control: lack of sanitation, storage, food preparation facilities, and inability to protect and maintain their belongings, to name a few. Therefore, single-serving containers of cereal and juice, for example, may be the most appropriate method of providing benefits to some homeless participants. Furthermore, the number of homeless participants expected to be served in any one State is not likely to be so great as to impact significantly on the State agency's available funds. State agencies are encouraged to accept attendant increases in food package costs rather than to diminish the potential benefits of program participation for the homeless.

One commenter was concerned that the stipulation in § 246.10(e)(2)(iii) of the interim regulations, to the effect that the cost of a substitute food must not exceed the cost of the item it is intended to replace, applies to adaptations as well as to substitutions. Adaptations such as ready-to-feed infant formula, UHT milk, or single-serving boxes of cereal, which can be made within existing food package guidelines, are not affected by this stipulation, i.e., may be made for WIC food packages issued to homeless participants even if the cost of the adaptation is higher than the item it replaces. The cost-neutrality issue of this provision is still intended to apply to foods which are substituted for other foods in the WIC food package. However, when the same food (or type of food), such as milk, is being provided in a different package, e.g., UHT instead of its usual more perishable form, the fact that UHT milk is more expensive than refrigerated milk should not keep a local agency from making such an adaptation to accommodate a homeless participant who does not have access to refrigerator facilities. Therefore, no change is made to this provision in the final rule.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—Social programs, Infants and children, Maternal and Child health, Nutrition education, Public assistance programs, WIC, Women.

Accordingly, the interim rule which was published at 54 FR 51289–51296 on December 14, 1989, is adopted as a final rule with the following changes:

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

1. The authority citation for part 246 is revised to read as follows:

Authority: Secs. 123 and 213, Pub. L. 101–147, 103 Stat. 877 (49 U.S.C. 1751); sec. 3201, Pub. L. 100–690, 102 Stat. 4181 (42 U.S.C. 1786); sec. 645, Pub. L. 100–460, 102 Stat. 2229 (42 U.S.C. 1786); secs. 212 and 501, Pub. L. 100–435, 102 Stat. 1645 (42 U.S.C. 1786); sec. 3, Pub. L. 100–356, 102 Stat. 669 (42 U.S.C. 1786); secs. 8–12, Pub. L. 100–237, 101 Stat. 1733 (42 U.S.C. 1786); secs. 341–353, Pub. L. 99–500 and 99–591, 100 Stat. 1783 and 3341 (42 U.S.C. 1786); sec. 815, Pub. L. 99–35, 95 Stat. 521 (42 U.S.C. 1786); sec. 203, Pub. L. 96–499, 94 Stat. 2599 (42 U.S.C. 1786); sec. 3, Pub. L. 95–627, 92 Stat. 3611 (42 U.S.C. 1786).

2. In § 246.4, paragraph (a)(19) is revised to read as follows:

§ 246.4 State plan.

(a) * * *

(19) The State agency's plan to establish, to the extent practicable, that homeless facilities, and institutions if it chooses to make the Program available to them, meet the conditions established in § 246.7(m)(1)(i) of this part, if residents of such accommodations are to be eligible to receive WIC Program benefits.

* * * * *

3. In § 246.7:

a. The first sentence of paragraph (i)(6) is revised;

b. The introductory text of paragraph (m)(1)(i) is revised;

c. Paragraph (m)(1)(i)(C) is removed;

d. Paragraph (m)(1)(i)(D) is redesignated as paragraph (m)(1)(i)(C);

e. Paragraph (m)(1)(iii) is revised;

f. Paragraph (m)(2) is revised;

g. Paragraph (m)(3) is removed;

h. Paragraph (m)(4) is redesignated as paragraph (m)(3) and revised; and

i. Paragraphs (m)(4)–(m)(6) are added.

The revisions and additions read as follows:

§ 246.7 Certification of participants.

* * * * *

(i) * * *

(6) A person who is about to be disqualified from Program participation at any time during the certification period shall be advised in writing not less than 15 days before the disqualification. * * *

* * * * *

(m) * * *

(1) * * *

(i) Establish, to the extent practicable, that the homeless facility meets the following conditions with respect to resident WIC participants:

* * * * *

(iii) Request the homeless facility to notify the State or local agency if it ceases to meet any of these conditions.

(2) The State agency may authorize or require local agencies to make the Program available to applicants who meet the requirements of paragraph (b) of this section, but who reside in institutions which meet the conditions of paragraphs (m)(1)(i)(A)–(C) of this section with respect to resident WIC participants.

(3) The State or local agency shall attempt to establish to the best of its ability,whether a homeless facility or institution complies with the conditions of paragraph (m)(1)(i) (A)–(C) of this section with respect to WIC participants. If caseload slots are available, full certification periods shall be provided to the following:

(i) Participants who are residents of a homeless facility or institution which has been found to be in compliance with the conditions of paragraph (m)(1)(i)(A)–(C) of this section;

(ii) Participants who are residents of a homeless facility or institution whose compliance with the conditions of paragraph (m)(1)(i)(A)–(C) of this section has not yet been established; and

(iii) Participants for whom no other shelter alternative is available in the local agency's service delivery area.

(4) If a homeless facility or institution has been determined to be noncompliant during the course of a participant's initial certification period, participants applying for continued benefits may be certified again, but the State agency shall discontinue issuance of WIC foods, except infant formula, to the participant in such accommodation until the accommodation's compliance is achieved or alternative shelter arrangements are made. If certified, such participants shall continue to be eligible to receive all other WIC benefits, such as nutrition education and health care referral services.

(5) The State agency shall continue to the end of their certification periods the participation of residents of a homeless facility or institution which ceases to comply with the conditions of paragraph (m)(1)(i)(A)–(C) of this section.

(6) As soon as the State or local agency determines that a homeless facility/institution does not meet the conditions of paragraph (m)(1)(i) (A)–(C) of this section, it shall refer all participants using such accommodation to any other accommodations in the area which meet these conditions.

4. In § 246.10, paragraph (e)(1) is amended by revising the first sentence to read as follows:

§ 246.10 Supplemental foods.

* * * * *

(e) *Plans for substitutions or eliminations.* (1) The State agency may submit to FNS a plan for substitution of food(s) acceptable for use in the Program to allow for different cultural eating patterns and substitution or elimination of a category of foods to accommodate the special needs of homeless persons, and/or residents of institutions if the State agency chooses to serve such persons under § 246.7(m)(2) of this part. * * *

* * * * *

Dated: July 24, 1992.

Betty Jo Nelsen,

Administrator.

[FR Doc. 92–18518 Filed 8–4–92; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103 and 240

[INS No. 1443–92; AG Order No. 1609–92]

RIN 1115–AC96

Waiver of Fees; Temporary Protected Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule redesignates § 240.48 of 8 CFR part 240 as § 240.20, and revises certain provisions of the interim rule concerning the procedures to request waivers of fees for applications for Temporary Protected Status (TPS) filed with district directors and service center directors. This rule is necessary to set forth the test to be used to establish inability to pay and to standardize the documentation which may be requested by adjudicating officers in making a determination on fee waiver requests for TPS. This rule also amends § 103.7 of 8 CFR part 103 to reflect that waivers of fees for applications for Temporary Protected Status may be granted pursuant to 8 CFR 240.20.

EFFECTIVE DATE: August 5, 1992.

FOR FURTHER INFORMATION CONTACT: Janet M. Thomas, TPS Coordinator, Immigration and Naturalization Service, 425 I Street NW., room 7122, Washington, DC 20536, telephone number (202) 514–5014.

Background

The Immigration and Naturalization Service ("the Service" or "INS") published an interim rule with request for comments at 56 FR 32500 on July 17, 1991. In drafting the final rule, the INS considered more than 35 comments representing the views of alien advocacy organizations, attorneys, and individuals.

Many commenters requested that the Service use the Public Welfare, Poverty Guidelines (federal poverty guidelines) as an equitable and well-established standard in determining inability to pay. After reviewing the comments, the Service has elected to determine inability to pay when essential expenditures equal or exceed gross income, unless the applicant has assets from which to pay the fee without substantial hardship. This formula is a more sensitive, and therefore a more

accurate, indication of whether an applicant does in fact have the ability to pay the required fee. Unlike the federal poverty guidelines standard, such test may allow an applicant whose income is above the federal poverty guidelines to be eligible for a fee waiver if the applicant has essential extraordinary expenditures due, for example, to a medical condition. The Service believes that the income/assets minus essential expenditures test will benefit some applicants in situations that merit a waiver but would not be covered by the federal poverty guidelines. Moreover, the Service notes that fee-paying applicants subsidize the costs of fee-waived applications; therefore, it is fair to require that all applicants who are reasonably able to pay the fee should do so.

Other commenters expressed the need to expand the definition of "essential extraordinary expenditures." After a review of the comments, the Service has expanded the definition of "essential extraordinary expenditures." However, the list provided in the rule is not exhaustive, and the adjudicating officer may determine that other expenses also constitute "essential extraordinary expenditures."

Several commenters also stated that under the interim rule, the Service was unable to grant a fee waiver if an applicant had income barely in excess of essential expenses but insufficient to cover the TPS fees. The Service has modified the interim rule to provide for a fee waiver if the income in excess of essential expenditures is less than the TPS fees for registration and employment authorization. Some commenters were also concerned with the possibility that adjudicators would consider as a factor in denying fee waivers the cost to the INS of administering the TPS program. The final rule specifically prohibits consideration of the cost of administering the TPS program as a justification for the denial of a fee waiver to an otherwise qualified applicant.

Some commenters stated that the documents required to prove inability to pay are burdensome. The Service's position is that if the affidavit submitted in support of the fee waiver includes the necessary information, and if the adjudicating officer finds it credible and sufficient, no other documents will be required. Moreover, the rule takes into account the fact that the applicant may not have the requested documents and provides for the use of an affidavit when the applicant declares under oath that such documents are unavailable.

Another issue raised by commenters was the possible identification of relatives in unlawful status who do not apply for TPS but who reside with a TPS fee waiver applicant. Unlike the Legalization Program, in which information obtained from the application could only be used to adjudicate the application and to prosecute for fraud, neither the TPS statute nor the regulation prohibits or restricts the use of the information in the TPS application to commence administrative deportation or exclusion proceedings against persons not entitled to temporary protected status.

The interim rule had designated a new § 240.48 of 8 CFR part 240 for fee waiver requests. This final rule redesignates § 240.48 as § 240.20 of 8 CFR part 240 so that it becomes part of the General Provisions of the TPS regulation. While no comments were received concerning the placement of the new section of the regulation, the Service is placing the new section within the General Provisions of the regulation to emphasize that the provision for fee waivers applies to citizens from all countries that are designated for TPS.

Summary of the Regulation

The amendment to 8 CFR part 240 specifies the standards to be applied and the necessary information to be contained in an applicant's affidavit to establish his or her inability to pay the required TPS fee. The applicant has the burden of proof in establishing his or her inability to pay. The adjudicating officer has discretion to decide whether that burden has been met. Even if the applicant declares that his or her gross income for the three months prior to the filing of the fee waiver request is less than his or her essential expenditures for such period, and that he or she does not have sufficient assets from which to pay the fee, the adjudicating officer may request additional information if he or she is not satisfied with the accuracy of the information or if the income or essential expenditures have not been adequately detailed. Fees for other applications, petitions, appeals, motions, or requests may be waived pursuant to the provisions of 8 CFR 103.7(c). Fee waiver requests addressed to immigration judges, or to the Board of Immigration Appeals, are considered under 8 CFR part 3.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Aliens, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 240

Administrative practice and procedure, Immigration.

Accordingly, parts 103 and 240 of title 8 of the Code of Federal Regulations are amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

§ 103.7 [Amended].

2. In § 103.7, paragraph (c)(4) is amended by revising the reference to "8 CFR 240.48" to read: "8 CFR 240.20".

PART 240—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

3. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1254a, 1254a note.

§ 240.48 [Redesignated as § 240.20]

4. Section 240.48 is redesignated as § 240.20 and revised to read as follows:

§ 240.20 Waiver of Fees.

(a) Any of the fees prescribed in 8 CFR 103.7(b) which relate to applications to the district director or service center director for Temporary Protected Status may be waived if the applicant establishes that he or she is unable to pay the prescribed fee. The applicant will have established his or her inability to pay when the adjudicating officer concludes, on the basis of the requisite affidavit and of any other information submitted, that it is more probable than not that:

(1) The applicant's gross income from all sources for the three-month period

prior to the filing of the fee waiver request, including income received or earned by any dependent in the United States, was equaled or exceeded by essential expenditures for such three-month period; and

(2) The applicant does not own, possess, or control assets sufficient to pay the fee without substantial hardship.

(b) For purposes of this section, essential expenditures are limited to reasonable expenditures for rent, utilities, food, transportation to and from employment, and any essential extraordinary expenditures, such as essential medical expenses, or expenses for clothing, laundry, and child care, to the extent that the applicant can show that those expenditures made during the three-month period prior to the filing of the fee waiver request were reasonable and essential to his or her physical well-being or to earning a livelihood.

(c) For purposes of this section, the TPS registration fee (including the fee for employment authorization, if applicable) shall be considered an essential expenditure. A fee waiver will be granted if the sum of the fees for TPS registration and employment authorization equals or exceeds income and assets that remain after deducting other essential expenditures.

(d) If an adjudicating officer is satisfied that an applicant has established inability to pay, he or she shall not deny a fee waiver due to the cost of administering the TPS program.

(e) For purposes of this section, the following documentation shall be required:

(1) The applicant seeking a fee waiver must submit an affidavit, under penalty of perjury, setting forth information to establish that he or she satisfies the requirements of this section. The affidavit shall individually list:

(i) The applicant's monthly gross income from each source for each of the three months prior to the filing of the fee waiver request;

(ii) All assets owned, possessed, or controlled by the applicant or by his or her dependents;

(iii) The applicant's essential monthly expenditures, itemized for each of the three months prior to the filing of the fee waiver request, including essential extraordinary expenditures; and

(iv) The applicant's dependents in the United States, his or her relationship to those dependents, the dependents' ages, any income earned or received by those dependents, and the street address of each dependent's place of residence.

(2) The applicant may also submit other documentation tending to substantiate his or her inability to pay.

(f) If the adjudicating officer concludes based upon the totality of their circumstances that the information presented in the affidavit and in any other additional documentation is inaccurate or insufficient, the adjudicating officer may require that the applicant submit the following additional documents prior to the adjudication of a fee waiver:

(1) The applicant's employment records, pay stubs, W–2 forms, letter(s) from employer(s), and proof of filing of a local, state, or federal income tax return. The same documents may also be required from the applicant's dependents in the United States.

(2) The applicant's rent receipts, bills for essential utilities (for example, gas, electricity, telephone, water), food, medical expenses, and receipts for other essential expenditures.

(3) Documentation to show all assets owned, possessed, or controlled by the applicant or by dependents of the applicant.

(4) Evidence of the applicant's living arrangements in the United States (living with relative, living in his or her own house or apartment, etc.), and evidence of whether his or her spouse, children, or other dependents are residing in his or her household in the United States.

(5) Evidence of the applicant's essential extraordinary expenditures or those of his or her dependents residing in the United States.

(g) The adjudicating officer must consider the totality of the information submitted in each case before requiring additional information or rendering a final decision.

(h) All documents submitted by the applicant or required by the adjudicating officer in support of a fee waiver request are subject to verification by the Service.

(i) In requiring additional information, the adjudicating officer should consider that some applicants may have little or no documentation to substantiate their claims. An adjudicating officer may accept other evidence, such as an affidavit from a member of the community of good moral character, but only if the applicant provides an affidavit stating that more direct documentary evidence in unavailable.

Dated: July 27, 1992.

William P. Barr,

Attorney General.

[FR Doc. 92–18490 Filed 8–4–92; 8:45 am]

BILLING CODE 4410–10–M#

FEDERAL ELECTION COMMISSION

11 CFR Part 200

[Notice 1992–12]

Administrative Regulations

AGENCY: Federal Election Commission.

ACTION: Final Rule.

SUMMARY: The Commission is creating a new subchapter B in chapter I of 11 CFR titled "Administrative Regulations." This subchapter will contain Commission regulations concerning administrative practice and procedure. The Commission is also publishing final rules on petitions for Rulemaking, the first part in subchapter B, to be found in 11 CFR part 200. These regulations provide the public with easy access to the procedures for filing rulemaking petitions with the Commission. In addition, the regulations delineate the process and agency considerations used for the disposition of petitions filed with the Commission. Finally, the regulations define what constitutes the agency record for the petition process. Further information is provided in the supplementary information which follows.

EFFECTIVE DATE: September 4, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Section 553(e) of the Administrative Procedure Act ("APA") provides: "Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule." 5 U.S.C. 553(e). Although the APA does not prescribe procedures for petitions made pursuant to section 553(e), the Attorney General's Manual on the APA states that every agency with rulemaking powers "should establish * * * procedural rules governing the receipt, consideration, and disposition of petitions filed." U.S. Department of Justice, Attorney General's Manual on the Administrative Procedure Act at 38 (1947).

The Commission endorsed a procedure for consideration of rulemaking petitions in April 1980 upon receipt of its first petition. In response to that petition, the Commission adopted internal guidelines to govern the petition process. See, Democratic National Committee and Democratic Senatorial Campaign Committee Petition for Rulemaking (Commission Memorandum No. 845 (4/9/80)).

Since the adoption of its procedures for the receipt and consideration of petitions, the Commission has received periodic requests for a description of those procedures. In an effort to make information on the petition process more readily available to the regulated public, the Commission on May 13, 1992, published a Notice of Proposed Rulemaking ("NPRM"), seeking comments on a proposal that these procedures be codified as part of title 11 of the Code of Federal Regulations. 57 FR 20430. No comments were received in response to this Notice.

The Commission's main purpose in adopting these rules is to aid the public by advising prospective petitioners what is necessary to activate Commission consideration of a petition for rulemaking and what the process will be upon receipt. By prescribing uniform format guidelines for the submission of petitions, the new rules will also help ensure that the Commission obtains from the outset the type of information needed for an informed decision on a rulemaking petition.

Statement of Basis and Purpose

Section 200.1. Purpose and Scope

This section summarizes the contents of this new part.

Section 200.2. Procedural Requirements

This section contains format and content requirements for the submission of petitions to the Commission pursuant to any of the Commission's governing statutes. It also allows the Commission to consider suggestions for rulemaking contained in an advisory opinion request or complaint without following the procedures of this part. The section offers petitioners the opportunity to submit proposals in draft regulatory form, but does not require this.

Section 200.3. Processing of Petitions

This section sets forth the procedures for consideration of rulemaking petitions.

Upon receipt of a petition, the Commission, upon recommendation of the Office of General Counsel, will publish a Notice of Availability in the **Federal Register**. The Notice of Availability will state that a petition has been filed with the Commission, that it is available for public inspection, and that comments are being solicited. The Notice of Availability will not take any position on the merits of the petition—the merits will not be considered until at least the expiration of the comment period on the Notice of Availability.

Depending upon the nature of the petition, the Commission has in the past determined that additional procedures may contribute to its decision on whether to commence a rulemaking proceeding. These regulations retain the practice of initiating a Notice of Inquiry, an Advance Notice of Proposed Rulemaking, a public hearing or other procedures should the Commission deem this appropriate in connection with a particular rulemaking. The flexibility of these additional procedures permits the Commission to receive comments and additional information on other issues related to or raised by the petition.

Section 200.4. Disposition of Petitions

This section describes the Commission's actions after a decision whether to initiate a rulemaking has been made. If the Commission decides to initiate a rulemaking based on the petition, it will publish a Notice of Inquiry, an Advance Notice of Proposed Rulemaking ("ANPRM") or a Notice of Proposed Rulemaking, as appropriate, in the **Federal Register**. If the Commission decides not to initiate a rulemaking, it will publish a Notice of Disposition, include in that Notice a brief statement of the basis for the decision not to proceed, and notify the petitioner of this action.

The proposed rule would have provided for publication of a Notice of Disposition regardless of whether the Commission decided to initiate a rulemaking based on the petition. The NPRM requested comments on whether this should be necessary when the Commission has decided to proceed with a rulemaking. The Commission has decided that a Notice of Disposition need not be published unless it declines to act on a petition.

If the Commission denies a rulemaking petition, the Notice of Disposition provides the only opportunity to publicly state the reasons for the denial. If the Commission decides to open a rulemaking, its reasoning will be explained in other rulemaking documents. Publishing a separate Notice of Disposition is unnecessary under these circumstances.

This section also authorizes the Commission to reconsider a petition for rulemaking it has previously denied, if the petitioner submits a written request for reconsideration within 30 calendar days after the date of the denial and if, upon the motion of a Commissioner who voted with the majority that originally denied the petition, the Commission adopts the motion to reconsider by the affirmative vote of four members. This procedure is similar to that currently used for reconsideration of advisory opinions. See, 11 CFR 112.6.

Section 200.5. Agency Considerations

This section lists several factors that the Commission will consider in making its decision whether to initiate a rulemaking proceeding. These factors include the Commission's statutory authority; policy considerations; the desirability of proceeding on a case-by-case basis; and available agency resources. The list is not exhaustive, but suggests factors that can be taken into account in particular cases.

Section 200.6. Administrative Record

This section defines the exclusive agency record upon which the Commission bases its decision on the petition. Its purpose is to explain to the public what constitutes the official agency file on a rulemaking petition, as well as to help to identify the documents upon which the Commission relied in reaching its decision on the petition, for purposes of judicial review.

The NPRM requested comments on a proposal to include in the administrative record only comments received within the prescribed comment period. Under this proposal, anyone wishing to submit comments after the comment period had ended would have had to request an extension for good cause from the Commission. If granted, the comment period would have been formally extended for all prospective commenters, and a notice to that effect published in the **Federal Register**. However, the Commission has decided to follow its usual practice in dealing with comments received after the due date: While it is not obligated to consider them, it will do so at its discretion.

Certification of no Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. The basis for this certification is that the regulations concern only internal agency procedures.

List of Subjects in 11 CFR Part 200

Administrative practice and procedure.

For the reasons set out in the preamble, chapter I of title 11 of the Code of Federal Regulations is amended as follows:

1. By adding the heading "Administrative Regulations" to reserved subchapter B.

2. By adding new part 200 to subchapter B as follows:

SUBCHAPTER B—ADMINISTRATIVE REGULATIONS

PART 200—PETITIONS FOR RULEMAKING

Sec.
200.1 Purpose of scope.
200.2 Procedural requirements.
200.3 Processing of petitions.
200.4 Disposition of petitions.
200.5 Agency considerations.
200.6 Administrative record.

Authority: 2 U.S.C. 437d(a)(8). 2 U.S.C. 438(a)(8), 5 U.S.C. 553(e).

§ 200.1 Purpose and scope.

This part prescribed the procedures for the submission, consideration, and disposition of petitions filed with the Federal Election Commission. It establishes the conditions under which the Commission may identify and respond to petitions for rulemaking, and informs the public of the procedures the agency follows in response to such petitions.

§ 200.2 Procedural requirements.

(a) Any interested person may file with the Commission a written petition for the issuance, amendment, or repeal of a rule implementing any of the following statutes:

(1) The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.;*

(2) The Presidential Election Campaign Fund Act, as amended, 26 U.S.C. 9001 *et seq.;*

(3) The Presidential Primary Matching Payment Account Act, as amended, 26 U.S.C. 9031 *et seq.;*

(4) The Freedom of Information Act, 5 U.S.C. 552; or

(5) Any other law that the Commission is required to implement and administer.

(b) The petition shall—

(1) Include the name and address of the petitioner or agent. An authorized agent of the petitioner may submit the petition, but the agent shall disclose the identity of his or her principal;

(2) Identify itself as a petition for the issuance, amendment, or repeal of a rule;

(3) Identify the specific section(s) of the regulations to be affected;

(4) Set forth the factual and legal grounds on which the petitioner relies, in support of the proposed action; and

(5) Be addressed and submitted to the Federal Election Commission, Office of General Counsel, 999 E Street, NW., Washington, DC 20463.

(c) The petition may include draft regulatory language that would effectuate the petitioner's proposal.

(d) The Commission may, in its discretion, treat a document that fails to conform to the format requirements of paragraph (b) of this section as a basis for a sua sponte rulemaking. For example, the Commission may consider whether to initiate a rulemaking project addressing issues raised in an advisory opinion request submitted under 11 CFR 112.1 or in a complaint filed under 11 CFR 111.4. However, the Commission need not follow the procedures of 11 CFR 200.3 in these instances.

§ 200.3 Processing of petitions.

(a) If a document qualifies as a petition under 11 CFR 200.2, the Commission, upon the recommendation of the Office of General Counsel, will—

(1) Publish a Notice of Availability in the **Federal Register**, stating that the petition is available for public inspection in the Commission's Public Records Office and that statements in support of or in opposition to the petition may be filed within a stated period after publication of the notice;

(2) Send a letter to the Commissioner of Internal Revenue, pursuant to 2 U.S.C. 438(f), seeking the IRS's comments on the petition; and

(3) Send a letter to the petitioner, acknowledging receipt of the petition and informing the petitioner of the above actions.

(b) If the petition does not comply with the requirements of 11 CFR 200.2(b), the Office of General Counsel may notify the petitioner of the nature of any discrepancies.

(c) If the Commission decides that a Notice of Inquiry, Advance Notice of Proposed Rulemaking, or a public hearing on the petition would contribute to its determination whether to commence a rulemaking proceeding, it will publish an appropriate notice in the **Federal Register**, to advise interested persons and to invite their participation.

(d) The Commission will not consider the merits of the petition before the expiration of the comment period on the Notice of Availability.

(e) The Commission will consider all comments filed within the comment period prescribed in the relevant **Federal Register** notice. The Commission may, at its discretion, consider comments received after the close of the comment period.

§ 200.4 Disposition of petitions.

(a) After considering the comments that have been filed within the comment period(s) and any other information relevant to the subject matter of the petition, the Commission will decide whether to initiate a rulemaking based on the filed petition.

(b) If the Commission decides not to initiate a rulemaking, it will give notice of this action by publishing a Notice of Disposition in the **Federal Register** and sending a letter to the petitioner. The Notice of Disposition will include a brief statement of the grounds for the Commission's decision, except in an action affirming a prior denial.

(c) The Commission may reconsider a petition for rulemaking previously denied if the petitioner submits a written request for reconsideration within 30 calendar days after the date of the denial and if, upon the motion of a Commissioner who voted with the majority that originally denied the petition, the Commission adopts the motion to reconsider by the affirmative vote of four members.

§ 200.5 Agency considerations.

The Commission's decision on the petition for rulemaking may include, but will not be limited to, the following considerations—

(a) The Commission's statutory authority;

(b) Policy considerations;

(c) The desirability of proceeding on a case-by-case-basis;

(d) The necessity or desirability of statutory revision;

(e) Available agency resources.

§ 200.6 Administrative record.

(a) The agency record for the petition process consists of the following:

(1) The petition, including all attachments on which it relies, filed by the petitioner.

(2) Written comments on the petition which have been circulated to and considered by the Commission, including attachments submitted as a part of the comments.

(3) Agenda documents, in the form they are circulated to and considered by the Commission in the course of the petition process.

(4) All notices published in the **Federal Register**, including the Notice of Availability and Notice of Disposition. If a Notice of Inquiry or Advance Notice of Proposed Rulemaking was published it will also be included.

(5) The transcripts or audio tapes of any public hearing(s) on the petition.

(6) All correspondence between the Commission and the petitioner, other commentators and state or federal agencies pertaining to Commission consideration of the petition.

(7) The Commission's decision on the petition, including all documents identified or filed by the Commission as part of the record relied on in reaching its final decision.

(b) The administrative record specified in paragraph (a) of this section

is the exclusive record for the Commission's decision.

Dated: July 30, 1992.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 92-18473 Filed 8-4-92; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

Investigative and Enforcement Procedures; Notification of Lapsed Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notification of lapsed program.

SUMMARY: This document notifies all persons that have received a Notice of Proposed Civil Penalty under the Civil Penalty Assessment Demonstration Program that the program will lapse as of August 1, 1992.

EFFECTIVE DATE: August 1, 1992.

FOR FURTHER INFORMATION CONTACT: Vicki S. Leemon, Manager, Adjudications Branch, Litigation Division, Office of the Chief Counsel [AGC-430], 701 Pennsylvania Avenue, NW., Washington, DC 20004; telephone (202) 376-6441.

SUPPLEMENTARY INFORMATION: The authority of the Administrator of the Federal Aviation Administration to assess civil penalties under the Civil Penalty Assessment Demonstration Program (49 U.S.C. app. 1475) for violations arising under the Federal Aviation Act of 1958 will lapse as of August 1, 1992. All persons that have received a Notice of Proposed Civil Penalty need not comply with time limits or other procedural requirements in 14 CFR part 13 until further notice. Attached is a notice from the Administrator advising all persons of the status of this program.

Issued in Washington, DC, on July 31, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Notice

To All Persons Who Have Received a Notice of Proposed Civil Penalty

The authority of the Administrator of the Federal Aviation Administration (FAA) to assess civil penalties for violations arising under the Federal Aviation Act of 1958, as amended, will lapse on August 1st, 1992. Congress is expected to act on a bill to renew that authority in the next few weeks. During the interim, no further action will be taken on your case. Effective August 1, 1992, and until further notice:

1. No informal conferences or adjudicatory hearings will be held;

2. No decisions on cases will be issued by the Administrator;

3. You are not required to comply with time limits or other procedural requirements in 14 CFR part 13.

This notice does not apply to cases arising under the Hazardous Materials Transportation Act.

If you have any questions about your case, you or your attorney may contact the FAA attorney handling your case. You will be notified if the processing of your case will be resumed. Please inform the FAA attorney handling your case if you change your address during this interim period.

Issued this 29th day of July, 1992.

Thomas C. Richards,

Administrator, Federal Aviation Administration.

[FR Doc. 92-18517 Filed 7-31-92; 11:38 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 25

[Docket No. NM-68; Special Conditions No. 25-ANM-60]

Special Conditions: McDonnell Douglas Model MD-90 Series Airplanes; High Intensity Radiated Fields (HIRF) Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: This special condition is issued for the McDonnell Douglas Model MD-90 series airplanes. These airplanes are equipped with high technology digital avionic systems which will perform critical functions. Examples of these systems are the Full Authority Digital Engine Control (FADEC) system, and the Inertial Reference System (IRS). The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of High Intensity Radiated Fields (HIRF). This special condition contains an additional safety standard which the Administrator considers necessary to ensure that the critical functions that these systems perform are maintained when these airplanes are exposed to HIRF.

EFFECTIVE DATE: September 7, 1992.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, FAA Flight Test and Systems Branch, ANM-11, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Ave. SW., Renton, Washington 98055-4056, telephone (206) 227-2135.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1989, McDonnell Douglas applied for an amendment to Type Certificate No. A6WE to include the new Model MD-90. The Model MD-90 is a re-engine derivative of the currently certified Model MD-80. It will be powered by two high bypass turbofan International Aero Engines (IAE) V2500 series engines. The fuel, hydraulic, environmental, pneumatic, anti-ice and electrical systems will be modified as necessary for compatibility with the V2500 engines. This airplane incorporates a number of novel or unusual design features, such as digital avionics including, but not necessarily limited to, FADEC, and IRS, etc.

Proposed Type Certification Basis

Under the provisions of § 21.101, McDonnell Douglas must show that the Model MD-90 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A6WE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certification No. A6WE are as follows:

1. Part 25 of the FAR as amended by Amendment 25-70, except for § 25.1309 as amended by Amendment 25-22 (or 25-41 for certain specified equipment and equipment installations), and certain other exceptions that are not relevant to this special condition.

2. Existing Special Condition No. 25-ANM-15, dated October 19, 1987, "Lightning Protection for New Electronic Systems," and other special conditions and an exemption that are not relevant to this special condition.

3. The emission and noise standards of Parts 34 and 36 of the FAR, respectively.

Special Conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certifications basis in accordance with § 21.101(b)(2).

Discussion

Airplane designs which utilize metal skins and mechanical means to command and control the airplane and engines have traditionally been shown to be immune to the effects of HIRF from ground based transmitters. With the trend toward increased HIRF levels from these sources, plus the advent of space and satellite communications,

coupled with digital electronic command and control of the airplane systems, the airplane's immunity to HIRF is in question.

The MD–90 is being designed and built with the propulsion systems using FADEC, and the IRS outputs interfacing with a number of different systems. These systems can be susceptible to disruption of both the command/response signals and the operational mode logic as a result of HIRF interference. To ensure that a level of safety is achieved equivalent to that of existing airplanes, a special condition is issued which requires that the components providing critical functions be designed and installed to preclude component damage and interruption of function due to HIRF.

It is not possible to precisely define the HIRF environment to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10KHz to 18GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system test and/or analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–500 KHz	60	60
500 KHz–2 MHz	80	80
2 MHz–30 MHz	200	200
30 MHz–100 MHz	33	33
100 MHz–200 MHz	150	33
200 MHz–400 MHz	56	33
400 MHz–1 GHz	4,020	935
1 GHz–2 GHz	7,850	1,750
2 GHz–4 GHz	6,000	1,150
4 GHz–6 GHz	6,800	310
6 GHz–8 GHz	3,600	666
8 GHz–12 GHz	5,100	1,270
12 GHz–18 GHz	3,500	551
18 GHz–40 GHz	2,400	750

The envelope given in Paragraph 2 above is revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R Subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S.

Discussion of Comments

Notice of proposed special conditions No. SC–92–2–NM was published in the **Federal Register** on April 15, 1992 (57 FR 13061), for public comment. The following discussion summarizes the comments received and the FAA response to the comments.

Two commenters point out that the EFIS to be used in the MD–90 is unchanged from those used in MD–80 airplanes; therefore, HIRF certification of these systems is not planned. In addition, the ACS hazard analysis determined that there are no critical functions being provided, which means that HIRF certification is not required for this system.

The FAA concurs with these comments. Reference to the EFIS and ACS is removed from the special condition preamble.

One commenter requests that the section in the notice of proposed special conditions which discusses compliance with the special condition be changed to read "test and/or analysis" rather than "test and analysis."

The FAA concurs that test, analysis, or a combination thereof is acceptable in showing compliance with the special condition; therefore, the text is changed as requested.

One commenter requested confirmation that the functional criticality designation of "critical" may be equated to "catastrophic" per FAA Advisory Circular (AC) 25.1309–1A.

The FAA confirms that this interpretation is correct.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the McDonnell Douglas Model MD–90 series airplanes:

Protection From Unwanted Effects of High Intensity Radiated Fields (HIRF)

Each new or significantly modified electrical and electronic system which performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to High Intensity Radiated Fields.

The following definition applies to this special condition:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on July 22, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service, ANM–100.

[FR Doc. 92–18404 Filed 8–4–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 26928; Amdt. No. 1501]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC, on July 17, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

Effective	State	City	Airport	FDC No.	SIAP
07/09/92	LA	Winnfield	David G. Joyce	FDC 2/3920	NDB RWY 8 AMDT2...
07/13/92	AR	Lake Village	Lake Village Muni	FDC 2/3996	VOR-A AMDT 6...
07/13/92	AR	Lake Village	Lake Village Muni	FDC 2/3997	VOR/DME-B AMDT 4...
07/13/92	CA	Camarillo	Camarillo	FDC 2/3993	VOR RWY 26 AMDT 3...
07/13/92	KS	Wichita	Cessna Aircraft Field	FDC 2/3986	VOR-C ORIG...
07/13/92	OR	Medford	Medford-Jackson County	FDC 2/3995	VOR/DME RWY 14 AMDT 1...
07/13/92	TX	El Paso	El Paso Intl	FDC 2/3960	NDB RWY 22 AMDT 28...

Effective	State	City	Airport	FDC No.	SIAP
07/13/92	TX	El Paso	El Paso Intl	FDC 2/3960	NDB RWY 22 AMDT 28...
07/14/92	AK	Nome	Nome	FDC 2/4023	NDB/DME RWY 2 ORIG...
07/14/92	KS	Newton	Newton-City County	FDC 2/4024	VOR/DME-A ORIG...
07/15/92	LA	Marksville	Marksville Municipal	FDC 2/4046	NDB RWY 4 AMDT 1...
07/15/92	PA	Dubois	Dubois-Jefferson County	FDC 2/4014	VOR/DME RWY 7 AMDT 3...

NFDC Transmittal Letter Attachment

Nome

Nome
Alaska
NDB/DME RWY 2 ORIG . . .
Effective: 07/14/92
FDC 2/4023/OME/ FI/P Nome, Nome, AK, NDB/DME RWY 2 ORIG . . . Delete note . . . Use OYN DME ON Final. Delete 14 DME ARC CW R-088 TO R-221. This is NDB/DME RWY 2 AMDT 1.

Lake Village

Lake Village Muni
Arkansas
VOR-A AMDT 6 . . .
Effective: 07/13/92
FDC 2/3996/M32/ FI/P Lake Village Muni, Lake Village, AR. VOR-A AMDT 6 . . .
CAT D MDA 700/HAA 555, VIS 2. This becomes VOR-A AMDT 6A.

Lake Village

Lake Village Muni
Arkansas
VOR/DME-B AMDT 4 . . .
Effective: 07/13/92
FDC 2/3997/M32/ FI/P Lake Village Muni, Lake Village, AR. VOR/DME-B AMDT 4 . . .CAT D MDA 700/HAA 575, VIS 2. This becomes VOR/DME-B AMDT 4A.

Camarillo

Camarillo
California
VOR RWY 26 AMDT 3 . . .
Effective: 07/13/92
FDC 2/3993/CMA/ FI/P Camarillo, Camarillo, CA, VOR RWY 26 AMDT 3 . . . S-26 MDA 720/HAT 645 ALL CATS. VIS CAT A/B 1, CAT C 1-3/4. This is VOR RWY 26 AMDT 3A.

New Haven

Tweed-New Haven
Connecticut
VOR-A AMDT 1 . . .
Effective: 06/29/92
This Corrects NOTAM IN TL 92-15.
FDC 2/3670/HVN/FI/P Tweed-New Haven, New Haven, CT. VOR-A AMDT 1 . . . Change Note to Read "When CTLZ not in effect use ISLIP ALSTG MIN." Change ALTN MIN . . . NA When CTLZ not in effect. THIS IS VOR-A AMDT 1A.

Wichita

Cessna Aircraft Field
Kansas
VOR-C ORIG . . .
Effective: 07/13/92
FDC 2/3986/CEA/ FI/P Cessna Aircraft Field, Wichita, KS. VOR-C ORIG . . . PROC NA at night. Delete note . . .Activate MIRL RWY 17L-35R—122.7. This is VOR-C ORIG A.

Newton

Newton-City County
Kansas
VOR/DME-A ORIG . . .
Effective: 07/14/92
FDC 2/4024/EWK/ FI/P Newton-City County, Newton, KS. VOR/DME-A ORIG . . . Delete note . . . Activate MALS RWY 17, REIL and VASI RWY 35-CTAF. Change ALT note to read . . . IF LCL ALSTG not received, use Wichita ALSTG and increase all MDAS 100 FT. This is VOR/DME-A ORIG A.

Bunkie

Bunkie Municipal
Louisiana
VOR/DME-A-AMDT 4 . . .
Effective: 07/09/92
FDC 2/3918/2R6/ FI/P Bunkie Municipal, Bunkie, LA. VOR/DME-A AMDT 4 . . . Amend note to read . . . Use Alexandria Esler Regional ALSTG, when not received, PROC NA. THIS IS VOR/DME-A AMDT 4A.

Winnfield

David G Joyce
Louisiana
NDB RWY 8 AMDT 2 . . .
Effective: 07/09/92
FDC 2/3920/0R5 FI/P David G Joyce, Winnfield, LA. NDB RWY 8 AMDT 2 . . . Amend note to read . . . Obtain Alexandria Esler Regional ALSTG from Houston Center, if not received, PROC NA. This is NDB RWY 8 AMDT 2A.

Marksville

Marksville Municipal
Louisiana
VOR/DME-A AMDT 2 . . .
Effective: 07/09/92
FDC 2/3922/LA26/ FI/P Marksville Municipal, Marksville, LA. VOR/DME-A AMDT 2 . . . Amend note to read . . . Use Alexandria Esler Regional ALSTG, When not received, PROC NA. This is VOR/DME-A AMDT 2A.

Natchitoches

Natchitoches Regional
Louisiana
NDB RWY 34 AMDT 2 . . .
Effective: 07/09/92
FDC 2/3923/3R8/ FI/P Natchitoches Regional, Natchitoches, LA. NDB RWY 34 AMDT 2 . . . Amend note to read . . . if LCL ALSTG not received, PROC NA. This is NDB RWY 34 AMDT 2A.

Natchitoches

Natchitoches Regional
Louisiana
LOC RWY 34 AMDT 1 . . .
Effective: 07/09/92
FDC 2/3926/3R8/ FI/P Natchitoches Regional, Natchitoches, LA. LOC RWY 34 AMDT 1 . . . Delete note . . . if LCL ALSTG . . . thru . . . 160 Ft. add note . . .if LCL ALSTG not received, PROC NA. This is LOC RWY 34 AMDT 1A.

Alexandria

Alexandria Esler Regional
Louisiana
VOR RWY 32 AMDT 13A . . .
Effective: 07/09/92
FDC 2/3927/ESF/ FI/P Alexandria Esler Regional, Alexandria, LA. VOR RWY 32 AMDT 13A . . . Delete note . . . WEHN LCL ALSTG . . . thru . . . 40 Ft. add note . . .if LCL ALSTG not received—except for operators with approved weather reporting service—PROC NA.

Alexandria

Alexandria Esler Regional
Louisiana
ILS RWY 26 AMDT 11A . . .
Effective: 07/09/92
FDC 2/3928/ESF/ FI/P Alexandria Esler Regional, Alexandria, LA. ILS RWY 26 AMDT 11A . . . Delete note . . . when LCL ALSTG . . . thru . . . MDAS 40 Ft. add note . . . if LCL ALSTG not received—except for operators with approved weather reporting service—PROC NA.

Alexandria

Alexandria Esler Regional
Louisiana
LOC BC RWY 8 AMDT 8A . . .
Effective: 07/09/92
FDC 2/3929/ESF/ FI/P Alexandria Esler Regional, Alexandria, LA. LOC BC RWY 8 AMDT 8A . . . Delete note . . .

when LCL ALSTG . . . thru . . . 40 Ft. add note . . . if LCL ALSTG not received—except for operators with approved weather reporting service—PROC NA.

Alexandria

Alexandria Esler Regional
Louisiana
NDB RWY 26 AMDT 7A . . .
Effective: 07/09/92
FDC 2/3930/ESF/ FI/P Alexandria Esler Regional, Alexandria, LA. NDB RWY 26 AMDT 7A . . . Delete note . . . when LCL ALSTG . . . thru . . . 40 Ft. add note . . . if LCL ALSTG not received—except for operators with approved weather reporting service—PROC NA. This is NDB RWY 26 AMDT 7B.

Marksville

Marksville Municipal
Louisiana
NDB RWY 4 AMDT 1 . . .
Effective: 07/15/92
FDC 2/4046/LA26/FI/P Marksville Municipal, Marksville, LA. NDB RWY 4 AMDT 1 . . . Amend note to read . . . use Alexandria Esler Regional Alstg, when not received, PROC NA. This is NDB RWY 4 AMDT 1A.

Warroad

Warroad Intl-Swede Carlson Field
Minnesota
NDB RWY 31 AMDT 6 . . .
Effective: 07/07/92
FDC 2/3869/RAD/ FI/P Warroad Intl-Swede Carlson Field, Warroad, MN. NDB RWY 31 AMDT 6 . . . Notes—Delete Note . . . obtain local altimeter setting on CTAF. When not received use Roseau altimeter setting. Increase all MDAS 60 feet and all visibilities ¼ mile. When neither are received PROC NA . . . add note . . . if local altimeter setting not received use Roseau altimeter setting and increase all MDAS 60 FEET. This is NDB RWY 31 AMDT 6A.

Warroad

Warroad Intl-Swede Carlson Field
Minnesota
VOR/DME RNAV RWY 31 AMDT 2 . . .
Effective: 07/07/92
FDC 2/3871/RAD/ FI/P Warroad Intl-Swede Carlson Field, Warroad, MN. VOR/DME RNAV RWY 31 AMDT 2 . . .Minimums delete Roseau altimeter setting minimums. Notes—Delete note . . . Obtain local altimeter setting on CTAF . . . When not received, use Roseau altimeter setting. When neither are received PROC NA . . .add note . . . if local altimeter setting not received use Roseau altimeter setting and increase all MDAS 60 feet. This is VOR/DME RNAV RWY 31 AMDT 2A.

Manchester

Manchester
New Hampshire
VOR/DME–3 RWY 17 ORIG . . .
Effective: 07/06/92
FDC 2/3846/MHT/ FI/P Manchester, Manchester, NH. VOR/DME–3 RWY 17 ORIG . . .Change S–17 MIN TO . . . MDA 720, HAT 491 all CATS, VIS CATS A/B 1, C 1 ¼, D 1 ½. Change Concord ALSTG S–17 MIN TO . . . MDA 780, HAT 551 all CATS, VIS A/B 1, C 1 ½, D 1 ¾. This is VOR/DME–3 RWY 17 ORIG A.

Manchester

Manchester
New Hampshire
VOR/DME RWY 17 AMDT 9 . . .
Effective: 07/06/92
FDC 2/3854/MHT/ FI/P Manchester, Manchester, NH. VOR/DME RWY 17 AMDT 9 . . . Delete notes . . . activate HIRLS 17–35, 6–24, and MALSR RWY 35–121.3. This is VOR/DME RWY 17 AMDT 9A.

Manchester

Manchester
New Hampshire
ILS RWY 35 AMDT 16 . . .
Effective: 07/07/92
FDC 2/3916/MHT/ FI/P Manchester, Manchester, NH. ILS RWY 35 AMDT 16 . . .Delete note . . . INOP TABLE . . thru . . MALSR. Add note . . . S–ILS INOP table does not apply to MALSR. This is ILS RWY 35 AMDT 16A.

Medford

Medford-Jackson County
Oregon
VOR/DME RWY 14 AMDT 1 . . .
Effective: 07/13/92
FDC 2/3995/MFR/ FI/P Medford-Jackson County, Medford, OR. VOR/DME RWY 14 AMDT 1 . . . Change Planview missed APCH holding pattern . . . HOLD NW, RT, 153 inbound. Delete note . . . Activate MALSR RWY 14—CTAF. This is VOR/DME RWY 14 AMDT 1A.

Dubois

Dubois-Jefferson County
Pennsylvania
VOR/DME RWY 7 AMDT 3 . . .
Effective: 07/15/92
FDC 2/4014/DUJ/ FI/P Dubois-Jefferson County, DUBOIS, PA. VOR/DME RWY 7 AMDT 3 . . . Change JUSTS CIP to 9DME VS 19 DME. This corrects U.S. TRML PROC N.E VOL 2 OF 3 dated 25 JUN 92 page 76.

El Paso

El Paso Intl
Texas
NDB RWY 22 AMDT 28 . . .
Effective: 07/13/92
FDC 2/3960/ELP/FI/P El Paso Intl, El Paso, TX. NDB RWY 22 AMDT 28 . . . Add to Additional Flight data chart . . . R–5107A, R–5103A. Add note . . . radar required when R–5103 in use. This becomes NDB RWY 22 AMDT 28A.

El Paso

El Paso Intl
Texas
NDB RWY 22 AMDT 28 . . .
Effective: 07/13/92
FDC 2/3960/ELP/FI/P El Paso Intl, El Paso, TX. NDB RWY 22 AMDT 28 . . . Add to Additional Flight data chart . . . R–5107A, R–5103A. Add note . . . radar required when R–5103 in use. This becomes NDB RWY 22 AMDT 28A.

Norfolk

Norfolk Intl
Virginia
ILS RWY 23 AMDT 6A . . .
Effective: 07/01/92
FDC 2/3731/ORF/ FI/P Norfolk Intl, Norfolk, VA. ILS RWY 23 AMDT 6A . . .Delete note . . . Autopilot coupled APCH NA below 450'. This becomes ILS RWY 23 AMDT 6B.

Wise

Lonesome Pine
Virginia
SDF/DME RWY 24 AMDT 2 . . .
Effective: 07/08/92
FDC 2/3901/LNP FI/P Lonesome Pine, Wise, VA. SDF/DME RWY 24 AMDT 2 . . .Missed approach . . .climbing right turn to 4500 VIA I–OWN LDA NE Course to STRYP INT and hold. This becomes SDF/DME RWY 24 AMDT 2A.

[FR Doc. 92–18415 Filed 8–4–92; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Fenbendazole and Lincomycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Hoechst-Roussel Agri-Vet Co. The NADA provides for the use of separately

approved fenbendazole and lincomycin Type A medicated articles to make Type C medicated swine feeds. The Type C feeds are used as an anthelmintic, for increased rate of weight gain in growing-finishing swine, for treatment and control of swine dysentery, and for reduction in the severity of swine mycoplasmal pneumonia.

EFFECTIVE DATE: August 5, 1992.

FOR FURTHER INFORMATION CONTACT: Steven Vaughn, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8643.

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Agri-Vet Co., Rte. 202–206 North, Somerville, NJ 08876–1258, filed NADA 140–954 providing for combining separately approved fenbendazole and lincomycin Type A medicated articles to make Type C medicated swine feeds. Fenbendazole is indicated for the removal of adult stage lungworms (*Metastrongylus apri* and *M. pudendotectus*); adult and larvae (L3, 4 stages—liver, lung, intestinal forms) large roundworms (*Ascaris suum*); adult stage nodular worms (*Oesophagostomum dentatum, O. quadrispinulatum*); small stomach worms (*Hyostrongylus rubidus*); adult and larvae (L2, 3, 4 stages—intestinal mucosal forms) whipworms (*Trichuris suis*); adult and larvae kidney worms (*Stephanurus dentatus*). Lincomycin is indicated for increased rate of weight gain in growing-finishing swine; for control of swine dysentery in animals on premises with a history of swine dysentery, but where symptoms have not yet occurred; for treatment and control of swine dysentery; and for reduction in the severity of swine mycoplasmal pneumonia caused by *Mycoplasma hyopneumoniae*.

The NADA is approved, and the regulations are amended in 21 CFR 558.258by revising paragraphs (a) and (c)(1)(i); by redesignating paragraphs (c)(1)(ii) and (c)(1)(iii) as paragraphs (c)(1)(i)(A) and (c)(1)(i)(B), respectively; and by adding new paragraphs (c)(1)(ii), (c)(1)(iii), (c)(1)(iv), and (c)(1)(v); and in 21 CFR 558.325 by adding new paragraph (c)(4)(ii) to reflect the approval. The basis for the approval is discussed in the freedom of information summary.

These are new animal drugs used in Type A medicated articles to make Type C medicated feeds. Fenbendazole is a Category II drug and lincomycin at 100 or 200 grams per ton is a Category II drug which, as provided in § 558.3 (21 CFR 558.3), require an approved Form FDA 1900 for making a Type C medicated feed from Category II Type A medicated articles. Therefore, an approved Form FDA 1900 is required for making a Type C medicated feed containing fenbendazole in combination with lincomycin as in the approved subject NADA and in §§ 558.258 and 558.325 as amended.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. to 4 p.m., Monday through Friday.

This approval qualifies for 3 years of marketing exclusivity beginning August 5, 1992, because the criteria for such exclusivity under the Generic Animal Drug and Patent Term Restoration Act of 1988 and section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)) have been met.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1.The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.258 is amended by revising paragraphs (a) and (c)(1)(i); by redesignating paragraphs (c)(1)(ii) and (c)(1)(iii) as paragraphs (c)(1)(i)(A) and (c)(1)(i)(B), respectively; and by adding new paragraphs (c)(1)(ii), (c)(1)(iii), (c)(1)(iv), and (c)(1)(v) to read as follows:

§ 558.258 Fenbendazole.

(a) *Approvals.* Type A medicated articles: 4 percent (18.1 grams per pound), 8 percent (36.2 grams per pound), and 20 percent (90.7 grams per pound) fenbendazole and all combinations provided for in this section to 012799 in § 510.600(c) of this chapter.

* * * * *

(c) * * *

(1) * * *

(i) *Amount.* Fenbendazole, 10 to 80 grams per ton (to provide 9 milligrams per kilogram of body weight) given over a 3- to 12-day period.

* * * * *

(ii) *Amount.* Fenbendazole 10 to 80 grams per ton (to provide 9 milligrams per kilogram body weight) and lincomycin 20 grams per ton.

(A) *Indications for use.* As an anthelmintic (as provided in paragraph (c)(1)(i)(A) of this section) and for increased rate of gain in growing-finishing swine.

(B) *Limitations.* Feed as sole ration. Do not feed to swine that weigh more than 250 pounds; as lincomycin provided by 000009 in § 510.600(c) of this chapter.

(iii) *Amount.* Fenbendazole 10 to 80 grams per ton (to provide 9 milligrams per kilogram body weight) and lincomycin 40 grams per ton.

(A) *Indications for use.* As an anthelmintic (as provided in paragraph (c)(1)(i)(A) of this section) and for control of swine dysentery in animals on premises with a history of swine dysentery, but where symptoms have not yet occurred.

(B) *Limitations.* Feed as sole ration. Do not feed to swine that weigh more than 250 pounds; as lincomycin provided by 000009 in § 510.600(c) of this chapter.

(iv) *Amount.* Fenbendazole 10 to 80 grams per ton (to provide 9 milligrams per kilogram body weight) and lincomycin 100 grams per ton.

(A) *Indications for use.* As an anthelmintic (as provided in paragraph (c)(1)(i)(A) of this section) and for the treatment of swine dysentery.

(B) *Limitations.* Feed as sole ration. Do not use within 6 days of slaughter. Do not feed to swine that weigh more than 250 pounds; as lincomycin provided by 000009 in § 510.600(c) of this chapter.

(v) *Amount.* Fenbendazole 10 to 80 grams per ton (to provide 9 milligrams per kilogram body weight) and lincomycin 200 grams per ton.

(A) *Indications for use.* As an anthelmintic (as provided in paragraph (c)(1)(i)(A) of this section) and for reduction in the severity of swine mycoplasmal pneumonia caused by *Mycoplasma hyopneumoniae.*

(B) *Limitations.* Feed as sole ration. Do not use within 6 days of slaughter. Do not feed to swine that weigh more

than 250 pounds; as lincomycin provided by 000009 in § 510.600(c) of this chapter.

* * * * *

3. Section 558.325 is amended by adding new paragraph (c)(4)(ii) to read as follows:

§ 558.325 Lincomycin.

* * * * *

(c) * * *

(4) * * *

(ii) Fenbendazole as provided in § 558.258.

Dated: July 29, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92-18469 Filed 8-4-92; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

Dependency and Indemnity Compensation

CFR Correction

In title 38 of the Code of Federal Regulations, parts 0-17, revised as of July 1, 1991, on page 166, in §3.5, paragraph (b)(3) was inadvertently omitted and should be included to read as follows:

§3.5 Dependency and indemnity compensation.

* * * * *

(b)* * *

(3) Death occurred on or after May 1, 1957, and before January 1, 1972, and the claimant had been ineligible to receive dependency and indemnity compensation because of the exception in subparagraph (1) of this paragraph. In such case dependency and indemnity compensation is payable upon election. (38 U.S.C. 410, 416, 417, Public Law 92-197, 85 Stat. 660)

* * * * *

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 0E3898 and 0E3908/R1155; FRL-4073-7]

RIN 2070-AB78

Pesticide Tolerances for Oxyfluorfen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for residues of the herbicide oxyfluorfen and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities cocoa beans and garbanzo beans. This regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: This regulation becomes effective August 5, 1992.

ADDRESSES: Written objections, identified by the document control number, [PP 0E3898 and 0E3908/R1155], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H7505C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-5310.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 27, 1992 (57 FR 22202), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petitions 0E3898 and 0E3908 to EPA on behalf of the named Agricultural Experiment Stations.

These petitions requested that the Administrator, purusant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), propose the establishment of tolerances for residues of the herbicide oxyfluorfen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage at 0.05 part per million (ppm) in or on certain raw agricultural commodities as follows:

1. *PP 0E3898.* Petition submitted on behalf of the Hawaii Agricultural Experiment Station proposing a tolerance for cocoa beans.

2. *PP 0E3908.* Petition submitted on behalf of the California Agricultural Experiment Station proposing a tolerance for garbanzo beans. The petitioner proposed that use of oxyfluorfen on garbanzo beans be limited to California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above (40 CFR 178.20). The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 17, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.381, paragraph (a) is amended by adding and alphabetically inserting the raw agricultural commodity cocoa beans, and paragraph (b) is amended by adding and alphabetically inserting the raw agricultural commodity garbanzo beans, to read as follows:

§ 180.381 Oxyfluorfen; tolerance for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Cocoa beans	0.05
* * * * *	

(b) * * *

Commodity	Parts per million
Beans, garbanzo	0.05
* * * * *	

[FR Doc. 92-18452 Filed 8-4-92; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-30072I; FRL 4046-8]

Tolerance Processing Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule increases fees charged for processing tolerance petitions for pesticides under the Federal Food, Drug, and Cosmetic Act (FFDCA). The change in fees reflects a 4.2 percent increase in pay for civilian Federal General Schedule (GS) employees in 1992.

EFFECTIVE DATE: September 4, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Ken Wetzel, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 700-F, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-305-5128).

SUPPLEMENTARY INFORMATION: The EPA is charged with administration of section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA). Section 408 authorizes the Agency to establish tolerance levels and exemptions from the requirements for tolerances for raw agricultural commodities. Section 408(o) requires that the Agency collect fees as will, in the aggregate, be sufficient to cover the costs of processing petitions for pesticide products, i.e., that the tolerance process be as self-supporting as possible. The current fee schedule for tolerance petitions (40 CFR 180.33) was published in the **Federal Register** on February 7, 1991 (56 FR 4946) and became effective on March 11, 1991. At that time the fees were increased 4.1 percent in accordance with a provision in the regulation that provides for automatic annual adjustments to the fees based on annual percentage changes in Federal salaries. The specific language in the regulation is contained in paragraph (o) of § 180.33 and reads in part as follows:

(o) This fee schedule will be changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale ***. When automatic adjustments are made based on the GS pay scale, the new fee schedule will be published in the **Federal Register** as a final rule to become effective 30 days or more after publication, as specified in the rule.

The pay raise in 1992 for Federal General Schedule employees is 4.2 percent; therefore, the tolerance petition fees are being increased 4.2 percent. The entire fee schedule, § 180.33, is presented for the reader's convenience. (All fees have been rounded to the nearest $25.00.)

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Fees, Pesticides and pests, Reporting and Recordkeeping requirements.

Dated: July 16, 1992,

Douglas D. Campt.

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.33 is revised to read as follows:

§ 180.33 Fees.

(a) Each petition or request for the establishment of a new tolerance or a tolerance higher than already established, shall be accompanied by a fee of $54,175, plus $1,350 for each raw agricultural commodity more than nine on which the establishment of a tolerance is requested, except as provided in paragraphs (b), (d), and (h) of this section.

(b) Each petition or request for the establishment of a tolerance at a lower numerical level or levels than a tolerance already established for the same pesticide chemical, or for the establishment of a tolerance on additional raw agricultural commodities at the same numerical level as a tolerance already established for the same pesticide chemical, shall be accompanied by a fee of $12,400 plus $850 for each raw agricultural commodity on which a tolerance is requested.

(c) Each petition or request for an exemption from the requirement of a tolerance or repeal of an exemption shall be accompanied by a fee of $9,975.

(d) Each petition or request for a temporary tolerance or a temporary exemption from the requirement of a tolerance shall be accompanied by a fee of $21,650 except as provided in paragraph (e) of this section. A petition or request to renew or extend such temporary tolerance or temporary exemption shall be accompanied by a fee of $3,075.

(e) A petition or request for a temporary tolerance for a pesticide chemical which has a tolerance for other uses at the same numerical level or a higher numerical level shall be accompanied by a fee of $10,800 plus $850 for each raw agricultural commodity on which the temporary tolerance is sought.

(f) Each petition or request for repeal of a tolerance shall be accompanied by a fee of $6,775. Such fee is not required when, in connection with the change sought under this paragraph, a petition or request is filed for the establishment of new tolerances to take the place of those sought to be repealed and a fee is paid as required by paragraph (a) of this section.

(g) If a petition or a request is not accepted for processing because it is technically incomplete, the fee, less $1,350 for handling and initial review, shall be returned. If a petition is withdrawn by the petitioner after initial processing, but before significant Agency scientific review has begun, the fee, less $1,350 for handling and initial review, shall be returned. If an unacceptable or withdrawn petition is resubmitted, it shall be accompanied by the fee that would be required if it were being submitted for the first time.

(h) Each petition or request for a crop group tolerance, regardless of the number of raw agricultural commodities involved, shall be accompanied by a fee equal to the fee required by the analogous category for a single tolerance that is not a crop group tolerance, i.e., paragraphs (a) through (f) of this section, without a charge for each commodity where that would otherwise apply.

(i) Objections under section 408(d)(5) of the Act shall be accompanied by a filing fee of $2,700.

(j)(1) In the event of a referral of a petition or proposal under this section to an advisory committee, the costs shall be borne by the person who requests the referral of the data to the advisory committee.

(2) Costs of the advisory committee shall include compensation for experts as provided in § 180.11(c) and the expenses of the secretariat, including the costs of duplicating petitions and other related material referred to the committee.

(3) An advance deposit shall be made in the amount of $27,050 to cover the costs of the advisory committee. Further advance deposits of $27,050 each shall be made upon request of the Administrator when necessary to prevent arrears in the payment of such costs. Any deposits in excess of actual expenses will be refunded to the depositor.

(k) The person who files a petition for judicial review of an order under section 408(d)(5) or (e) of the Act shall pay the costs of preparing the record on which the order is based unless the person has no financial interest in the petition for judicial review.

(l) No fee under this section will be imposed on the Inter-Regional Research Project Number 4 (IR–4 Program).

(m) The Administrator may waive or refund part or all of any fee imposed by this section if the Administrator determines in his or her sole discretion that such a waiver or refund will promote the public interest or that payment of the fee would work an unreasonable hardship on the person on whom the fee is imposed. A request for waiver or refund of a fee shall be submitted in writing to the Environmental Protection Agency, Office of Pesticide Programs, Registration Division (H7505C), Washington, DC 20460. A fee of $1,350 shall accompany every request for a waiver or refund, except that the fee under this sentence shall not be imposed on any person who has no financial interest in any action requested by such person under paragraphs (a) through (k) of this section. The fee for requesting a waiver or refund shall be refunded if the request is granted.

(n) All deposits and fees required by the regulations in this part shall be paid by money order, bank draft, or certified check drawn to the order of the Environmental Protection Agency. All deposits and fees shall be forwarded to the Environmental Protection Agency, Headquarters Accounting Operations Branch, Office of Pesticide Programs (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. The payments should be specifically labeled "Tolerance Petition Fees" and should be accompanied only by a copy of the letter or petition requesting the tolerance. The actual letter or petition, along with supporting data, shall be forwarded within 30 days of payment to the Environmental Protection Agency, Office of Pesticide Programs, Registration Division, (H7504C) Washington, DC 20460. A petition will not be accepted for processing until the required fees have been submitted. A petition for which a waiver of fees has been requested will not be accepted for processing until the fee has been waived or, if the waiver has been denied, the proper fee is submitted after notice of denial. A request for waiver or refund will not be accepted after scientific review has begun on a petition.

(o) This fee schedule will be changed annually by the same percentage as the percent change in the Federal General Schedule (GS) pay scale. In addition, processing costs and fees will periodically be reviewed and changes will be made to the schedule as necessary. When automatic adjustments are made based on the GS pay scale, the new fee schedule will be published in the Federal Register as a Final Rule to become effective 30 days or more after publication, as specified in the rule. When changes are made based on periodic reviews, the changes will be subject to public comment.

[FR Doc. 92–18578 Filed 8–4–92; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 281

[FRL–4191–1]

Louisiana; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on Louisiana's application for final approval.

SUMMARY: The State of Louisiana has applied for final approval of its underground storage tank (UST) program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). Environmental Protection Agency (EPA) has reviewed Louisiana's application and has reached a final determination that Louisiana's underground storage tank program satisfies all of the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to Louisiana to operate its program.

EFFECTIVE DATE: Final approval for Louisiana shall be effective at 1 p.m. on September 4, 1992.

FOR FURTHER INFORMATION CONTACT: Samuel Coleman, Manager, Office of Underground Storage Tanks, U.S. EPA, 1445 Ross Avenue, Mail code 6H–A, Dallas, Texas, 75202–2733, (214) 655–6755.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) enables the Environmental Protection Agency to approve State underground storage tank programs to operate in the State in lieu of the Federal underground storage tank program. To qualify for final authorization, a State's program must: (1) be "no less stringent" than the Federal program; and (2) provide for adequate enforcement (Sections 9004(a) and 9004(b) of RCRA, 42 U.S.C. 6991c(a) and 6991c(b)).

On October 15, 1991, Louisiana submitted an official application to obtain final approval to administer the underground storage tank program. The application contained the following elements: State Statutes (Subtitle II of Title 30 of the Louisiana Revised Statutes, 1990), State Regulations (Title 33, Part XI, 1991), Attorney General's Statement, Memorandum of Agreement, and Program Description. EPA's review and approval of these elements provides the basis for EPA's authorization of Louisiana's program.

On June 12, 1992, EPA published a tentative decision announcing its intent

to grant Louisiana final approval pending minor changes to Louisiana's Underground Storage Tank Regulations to satisfy the requirement that the Louisiana Regulations be no less stringent than the Federal Regulations.

These changes were documented in a Memorandum of Agreement between the State of Louisiana and EPA dated May 14, 1992. Further background on the tentative decision to grant approval appears at 57 FR 25003, June 12, 1992.

Along with the tentative determination EPA announced the availability of the application for public comment and the date of a public hearing on the application. No public comments were received at the hearing and no written public comments were received regarding EPA's approval of Louisiana's underground storage tank program.

The regulation changes agreed upon by the State of Louisiana and EPA were effective July 20, 1992, and satisfy the requirement that Louisiana regulations are no less stringent than the Federal regulations.

The Louisiana program regulates underground storage tanks containing petroleum or hazardous substances defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980. This does not include RCRA hazardous wastes.

The State of Louisiana is not authorized to operate the UST program on Indian lands. This authority will remain with EPA.

B. Decision

After reviewing the changes the State has made to its regulations since the tentative decision, I conclude that the State of Louisiana's application for final approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, Louisiana is granted final approval to operate its underground storage tank program in lieu of the Federal program. Louisiana now has the responsibility for managing underground storage tank facilities within its borders and carrying out all aspects of the UST program. Louisiana also has primary enforcement responsibility, although EPA retains the right to conduct inspections under section 9005 of RCRA, 42 U.S.C. 6991d, and to take enforcement actions under Section 9006 of RCRA, 42 U.S.C. 6991e.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This approval effectively suspends the applicability of certain Federal regulations in favor of Louisiana's program, thereby eliminating duplicative requirements for owners and operators of underground storage tanks in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 281

Administrative Practice and Procedure, Hazardous Materials, State Program Approval and Underground Storage Tanks.

Authority: This notice is issued under the authority of sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6974(b), and 6991(c).

Dated: July 24, 1992.

Joe D. Winkle,

Acting Regional Administrator.

[FR Doc. 92-18297 Filed 8-4-92; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6938

[AK-932-4214-10; AA-66901]

Partial Revocation of Public Land Order No. 5554, as Amended, for Selection of Land by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects 1,141.43 acres of National Forest System land withdrawn for selection by the Natives of Kodiak, Inc., and opens the land for selection by the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State will be subject to the terms and conditions of the national forest reservation and any other withdrawal of record.

EFFECTIVE DATE: August 5, 1992.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by section 22(h)(4) of the Alaska Native Claims Settlement Act 43 U.S.C. 1621(h)(4) (1988), it is ordered as follows:

1. Public Land Order No. 5554, as amended, is hereby revoked insofar as it affects the following described land:

Seward Meridian

T. 22 S., R. 18 W.,
Sec. 36, lot 2.
T. 23 S., R. 18 W.,
Sec. 1, lot 1;
Sec. 12, lot 1;
Sec. 13, lots 1, 2, and 3;
Secs. 24 and 25.

The areas described aggregate 1,141.43 acres.

2. Subject to valid existing rights, the land described above is hereby opened to selection by the State of Alaska under the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988).

3. The State of Alaska application for selection made pursuant to section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), becomes effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State will be subject to the terms and conditions of the Chugach National Forest reservation and any other withdrawal of record.

Dated: July 22, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92-18493 Filed 8-4-92; 8:45 am]

BILLING CODE 4310-JA-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 43

[DA 92-968]

Reporting Requirements for International Traffic Data Under § 43.61 of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Notice; revised manual.

SUMMARY: The Common Carrier Bureau adopted a filing manual for international traffic data in order to implement revised § 43.61 filing requirements. Both facilities-based and pure resale carriers must use this manual to report message counts, minute counts, gross revenues.

international settlements amounts, and retained revenues for international communications services. This manual replaces the filing manual adopted in 1989. The revised manual eliminates obsolete reporting requirements, streamlines requirements for pure resellers, and provides a new data format to speed processing.

DATES: Effective date July 22, 1992. Traffic data for the prior calendar year must be filed by July 31, 1992.

ADDRESSES: The transmittal letter must be filed with the Secretary, Federal Communications Commission, Washington, DC 20554. Traffic data must be filed with the FCC Common Carrier Bureau, Industry Analysis Division, 1250 23rd Street, NW., room 10, Washington, DC 20554 and with Downtown Copy Center, 1919 M Street, NW., room 246, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Linda Blake or Jim Lande, Common Carrier Bureau, Industry Analysis Division, (202) 632-0745.

SUPPLEMENTARY INFORMATION:

FCC Report 43.61

Approved by OMB, 3060-0106, Expires 8/1/93. Estimated Average Burden Hours Per Response: 9 Hours.

Manual for Filing § 43.61 Data in Accordance With the FCC's Rules and Regulations, July 1992—Notice to Individuals

Section 43.61 of the Commission's Rules compels all carriers providing international service to provide traffic and revenue data. The collection of § 43.61 traffic data stems from the Commission's authority under the Communications Act of 1934. Sections 4, 48, 48 Stat. 1066, as amended, 47 U.S.C. 154 unless otherwise noted. Interpret or apply sections 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

The foregoing Notice is required by the Privacy Act of 1974, Public Law 93.579, December 31, 1974, 5 U.S.C. 552(a)(e)(3), and the Paperwork Reduction Act of 1980. Public Law 96-511, section 3504(c)(3).

Public reporting burden for this collection of information is estimated to average 9 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction project (3060-0106), Washington, DC 20503.

Contents

Introduction

All common carriers that provide international communications service must file an annual report of service provided during the previous calendar year.[1] The reports contain traffic and revenue information for service between the United States and international points. The data collected pursuant to § 43.61 of the FCC's Rules are presented in FCC statistical reports, are used to monitor the development and competitiveness of international telecommunications markets and are used in the facilities planning process. In addition, the FCC uses this information to develop and support United States positions in discussions with foreign governments and international standards organizations, such as the International Telecommunications Union.

On December 24, 1991, the Commission adopted a Report and Order simplifying the reporting requirements for international traffic and revenues.[2] To simplify and improve reporting, the Commission removed the detailed reporting requirements from Section 43.61 of the Rules and Regulations and directed the Chief of the Common Carrier Bureau to adopt a revised filing manual after notice and comment.[3]

Section 43.61(a) of the FCC's Rules requires that each common carrier providing international telecommunications service between any U.S. point and any non U.S. point must file traffic and revenue data. Section 43.61(b) mandates that carriers provide traffic and revenue data for each and every international service. Section 43.61(d) specifies that the traffic and revenue data must be furnished in accordance with this manual.

This manual defines the traffic and revenue statistics for international telecommunications services that must be reported. Traffic measures vary by service. Depending on which service is being reported, carriers must provide minutes, messages, words, or number of leased circuits. Revenue statistics include billed carrier revenue, settlement payments to foreign correspondents, settlement receipts from foreign correspondents, and net revenue to the carrier.

The manual details reporting requirements for two categories of carriers. Facilities-based carriers own or lease international telecommunications facilities in order to provide international service. Facilities-based carriers must provide detailed data for the services that they provide. Pure resale carriers do not own or lease facilities, and provide switched service by reselling the switched services of other carriers. Carriers may provide more limited data for pure resale traffic. Other resellers, i.e., those that provide international telecommunications services by means of leased private line or other non-switched service must provide data on their international services in accordance with the reporting requirements established for facilities-based carriers.

Facilities-based carriers must provide country-by-country data for international message telephone service, international message telegraph service, telex service, and six classes of private

[1] 47 CFR Section 43.61.

[2] *Report and Order, Amendment of Section 43.61 of the Commission's Rules*, 7 FCC Rcd 1379 (1992).

[3] Section 43.61(d) of the FCC's Rules and Regulations provides that international traffic and revenue data be filed "* * * in conformance with the instructions and reporting requirements prepared under the direction of the Chief, Common Carrier Bureau, prepared and published as a manual."

line service. Facilities-based carriers must provide summary data for all other international services. Other international services include facsimile service,[4] cablephoto service, radiophoto service, photo transmission service, addressed press service, packet switched data service, switched private line service and virtual private line service. Facilities-based carriers must report pure resale service separately from facilities-based switched services, but may do so on a world total basis.

International points are grouped into 10 world regions. In addition to providing world totals, facilities-based carriers must provide subtotals by region for each facilities-based international service that they provide.

Carriers are required to provide world total data for each pure-resale international service that they provide, but are not required to report data on a country-by-country basis or subtotals by world region. Carriers providing pure-resale international message telephone service must also list the countries to which they actually provide pure-resale service during the calendar year for which data is reported.

This manual contains several significant changes from prior manuals. The definition of reportable international traffic has changed. Annual reports must now include information on service with Canada, Saint Pierre and Miquelon, and Mexico. In prior years carriers were not required to include information on service with these international points.

The Report and Order discontinued the circuit traffic (CT) schedule. In the past, Section 43.61 required two schedules each for international message telephone service, international message telegraph, and telex service. The message traffic (MT) schedule reported service for each overseas point of destination and origin, including service that transited the United States. The circuit traffic (CT) schedule reported traffic volumes and revenues by circuit (irrespective of origin or destination) for countries with which the U.S. carrier had direct service. The Commission determined that it no longer requires data from the CT schedules. This manual requires that carriers file data that is similar to the former MT schedules.

This manual defines three categories of traffic: billed in the United States (U.S. Billed); billed in a foreign country (Foreign Billed); and, traffic that transits the United States (Transiting).[5] Minutes, messages, carrier revenues, and settlement amounts will be reported for each of these traffic categories, except that carriers may omit message counts for transiting traffic.

This manual includes two additional categories for reporting private line service data. Carriers must now separately report voice circuits and circuits providing capacity greater than 120 Megabits per second or 72 Megahertz of bandwidth.

This manual greatly reduces the amount of information that must be provided by pure resellers. Pure resellers are carriers that provide international services without owning or leasing transmission facilities. The FCC Rules formerly required that pure resellers file the same country-by-country information required of facilities-based carriers. This manual allows pure resellers to file world total traffic and revenue data by service. Pure resellers providing message telephone service must also provide a list of the countries that they actually served. Table 5 of International Points is a checklist that can be used for this purpose.

The public reporting burden for the revised manual is estimated to average 9 hours including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The 9 hours is a weighted average response time based on 80 hours for 10 facilities-based carriers and 1 hour for 100 pure resellers. These figures represent the incremental reporting burden, and do not include the time that carriers spend maintaining data for other purposes. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction project (3060–0106), Washington, DC 20503.

This manual consists of two sections. Section 1 defines international telecommunications service, explains the service categories, defines the data requirements, and contains filing instructions. Section 2 defines a computerized format, and explains specialized codes that facilities-based carriers must use for reporting data. The manual incorporates by reference the Common Carrier Bureau Industry Analysis Division report titled International Points.[6] International Points lists world points that originate or receive international telecommunications traffic. The report contains the country and region codes that must be used to file § 43.61 data. The report is published periodically and shows various classification schemes for world points. Revisions to International Points will reflect changes in political boundaries and the extent and operation of international telecommunications networks.

Section 1—Definitions and General Information

A. The Distinction Between International and Domestic Telecommunications Services

International traffic and revenue data must be reported in accordance with § 43.61 of the Rules. Section 43.61(a) states that "[e]ach common carrier engaged in providing international telecommunications service between the area comprising the continental United States, Alaska, Hawaii, and offshore U.S. points and any country or point outside that area must file a report with the Commission not later than July 31 of each year from service actually provided in the preceding calendar year." Telecommunications services allow the public to communicate by means of electronic signals transmitted by wire, radio, visual or other electromagnetic systems and can entail the carriage of traffic or the provision of dedicated communications channels. A service channel or circuit is a path for electronic transmission of information between two or more points.

[4] Most people associate the word facsimile with the use of terminal equipment that sends and receives images of a page. The electronic image is transmitted over the public switched network. Carriers should not separate this type of traffic from other types of international message telephone traffic. Our rules previously required detailed data reporting for several services that are obsolete, including one then called facsimile service. The older facsimile service was a private line service. The facsimile lines accommodated analog equipment that transmitted images at a rate of 3 to 6 pages per hour. Digital equipment was introduced in the late 1960's. Customers stopped using dedicated facsimile lines in the 1970's with the development of facsimile equipment that could utilize the public switched telephone network. See *Robert and Order*, note 16. Any remaining dedicated facsimile lines should be reported as private lines using the appropriate private line category.

[5] The previous manual used the categories: traffic that originated in the United States and terminated in a foreign country; traffic that terminated in the United States and originated in a foreign country; and traffic that originated in a foreign country, transited the United States, and terminated in a foreign country. Transiting traffic also has been referred to as indirect service.

[6] The full title is International Points Used for FCC Reporting Purposes, released May 1992.

This manual defines three categories of geographic points. Domestic U.S. points are the 50 states, the District of Columbia, and Puerto Rico. Off-shore U.S. points include U.S. possessions such as American Samoa, Guam, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, the Northern Mariana Islands, Palmyra Atoll, the U.S. Virgin Islands, and Wake Island. The Domestic U.S. and Off-shore U.S. points are collectively referred to herein as the United States. All other points of the world, including ships operating in international waters, are Foreign points.[7] Canada, Saint Pierre and Miquelon, and Mexico are foreign points. United States and foreign points are identified in the publication International Points, produced by the Industry Analysis Division of the Common Carrier Bureau.

The geographic categories Domestic U.S., Off-shore U.S. and Foreign shall be used to determine which data must be reported. Service that both originates and terminates in Domestic U.S. points is considered to be domestic and need not be reported under § 43.61 of the Rules.[8] All other traffic for a United States point must be reported.

The following table illustrates the classification of traffic for various pairs of points:

Service originating and terminating points	Categorized	Reporting status
Alaska and Hawaii.	Domestic U.S. and Domestic U.S.	Domestic Traffic: not reported.
Alaska and Guam.	Domestic U.S. and Off-shore U.S.	U.S. International Traffic: Reported.
Alaska and Japan.	Domestic U.S. and Foreign.	U.S. International Traffic: Reported.
Guam and Japan.	Off-shore U.S. and Foreign.	U.S. International Traffic: Reported.
Guam and Wake Island.	Off-shore U.S. and Off-shore U.S.	U.S. International Traffic: Reported.
Japan and Italy via Hawaii.	Foreign and Foreign (U.S. transiting).	U.S. International Traffic: Reported.
Japan and Italy via Guam.	Foreign and Foreign (U.S. transiting).	U.S. International Traffic: Reported.
Japan and Italy direct.	Foreign and Foreign.	Foreign Traffic: not reported.

The distinction between domestic and international traffic may prove burdensome in some instances. For example, there may be instances where customers obtain international service while using a domestic telecommunications service. A domestic cellular service might be usable just outside U.S. territorial waters. The cellular carrier may have no way of knowing if its service is being used to complete an international call. If the carrier bills such a customer at domestic rates, the traffic should be considered incidental to domestic service, and need not be included in § 43.61 reports. The opposite situation might occur where a customer uses an international maritime service while in U.S. territorial waters. Such a call to a domestic point would be a domestic call. It could be difficult for the carrier to identify and remove such traffic from its international reports. Such traffic is incidental to international service, and may be included in § 43.61 reports as international traffic. Carriers should footnote entries that might contain a significant amount of such traffic.

B. Service Categories Used for Reporting Data

Section 43.61(b) of the FCC's Rules requires carriers to provide traffic and revenue information for each and every international common carrier service that they provide to the public.[9] The reports must separately show data for the following service categories:

International Message Telephone Service—International message telephone service involves the transmission and reception of speech over the public switched network for which a charge is collected on a minimum charge per call or measured time basis. Per call prices are typically calculated based on the number of minutes. Service features, such as operator assistance or credit card billing, may be offered as part of the service and may give rise to additional charges. Through use of modems and other specialized equipment, the customer can use ordinary telephone calls for the transmission of data, video and facsmile [10] messages. International message telephone services have been tariffed on a "through" basis from the United States to a particular foreign point. Traditionally, service is provided jointly by a U.S. international message telephone service carrier and its foreign correspondent carrier under a "joint operating agreement". Such agreements typically specify the responsibility of each correspondent, the accounting rate per unit of international message telephone service traffic, the basis for settling traffic balances, and arrangements such as "proportionate return" which govern the routing of traffic.[11] Carriers offer many types of switched network services with different access and billing arrangements. International message telephone service includes service with dedicated access if the calls are routed through the public switched network. Accordingly, for international reporting purposes, the International message telephone service category includes traditional international message telephone service, WATS, 800 type services, custom network services, conference services, country direct service, and similar services. The International message telephone service category can also include switched digital services that utilize ISDN interfaces.

International Message Telegraph Service—International message telegraph service involves the transmission and reception of record matter for which the transmission is not directly controlled by the sender and for which a charge is collected on a per word basis.[12]

Telex Service—Telex service involves the transmission and reception of record matter, including messages, facsimile and data, charged for on a per-call basis for which the transmission is directly controlled by the user. Messages may be transmitted via carrier facilities on either a direct dial or on a store and forward basis. The telex network provides for the transmission of communications alternately in either direction, but not in both directions simultaneously. Such services are also

[7] The term "Foreign point" replaces the term "Overseas point" which did not include Canada, Mexico or Saint Pierre and Miquelon.

[8] At one time the § 43.61 reporting requirements excluded traffic between the United States and Canada, Mexico, and Saint Pierre and Miquelon. In addition, the previous Manual did not require reporting of traffic between U.S. points and Off-shore U.S. points.

[9] Enhanced services as defined by Section 64.702 of the Rules are exempt from part 43.61 reporting requirements.

[10] See footnote 4 above.

[11] International Message Telephone Service can also be provided by resale. Regulation of International Accounting Rates, 7 FCC Rcd 559 (1991) (First Report and Order).

[12] At one time carriers were required to provide separate data for message telegraph services offered to the public, to governments, and to press entities. Carriers should report 43.61 data that represents totals for all types of customers.

referred to as teleprinter exchange services.

Private Line Service—Private line service is the leasing of a dedicated channel of communications (leased circuit) for specified periods of time for the customer's use. Leased private line circuits are typically priced by bandwidth or capacity and other features such as conditioning. International private line service does not include private circuits within the Untied States. The international portion of the service typically begins at a point within the United States, the terminates at a connection point halfway between the United States and the destination country.[13] Revenues reported for international private line services must exclude the revenue derived from private lines that originate and terminate within the United States. Switched and virtual private line services should be reported separately as Other International Services.[14] There are six categories of private line service for reporting purposes:

1. Voice Circuits [15]
2. up to 1200 bits per second (bps)
3. 1201 bps to 9600 bps
4. 9601 bps to 30 Million bps (Mbps) or .01 Megahertz to 18 Megahertz
5. greater than 30 Mbps to 120 Mbps or 18 Megahertz to 72 Megahertz
6. greater than 120 Mbps or greater than 72 Megahertz

Other International Service—The final service category includes all services that are not listed above. The category includes cablephoto service, radiophoto service, photo transmission service and addressed press service.[16] The category also includes packet switched transmission service, switched and virtual private line services and some other forms of switched digital service. The category also includes any new service that differs from services listed above.

[13] The remaining half of the international private line from the theoretical midpoint to the foreign destination is provided by the U.S. carrier's foreign correspondent carrier. Each carrier bills the customer separately for its half of the service. In actuality, although the service is priced on the basis of a theoretical midpoint, the international circuitry is usually provided by the U.S. and foreign carrier jointly, with each carrier owning an undivided half-interest in the circuits.

[14] These services are considered to be private lines services, but are often priced on a basis other than that described in this definition. Consequently, the reporting of revenues for such services cannot easily conform to the format specified for the private line categories contained herein.

[15] This category includes individual circuits that are usable for voice traffic. This category does not include large capacity circuits provided as multiple voice grade equivalent channels.

[16] Section 43.61 of the rules formerly required detailed country-by-country data submissions for these services.

C. Data To Be Reported

Facilities-based traffic must be reported separately from pure resale traffic. A facilities-based carries uses one or more international channels of communications to provide international telecommunications service. An international channel is a wire or radio link that facilitates electronic communications between a United States point and another world point. A facilities-based carrier may own or lease international channels. By contrast, pure resale traffic is not provided to the public over the reseller's international channels of communications, but instead are provided by the resale of a switched communications service provided by another international carrier. Any other type of resale traffic is considered to be the same as facilities-based traffic for reporting purposes.

Carriers must file separate data schedules for each United States point to which they provide facilities-based service. For larger U.S. points, facilities-based carriers must provide country-by-country data for each service that they provide. This data must be provided on computer disk. Carriers may not consolidate facilities-based data for two United States points without obtaining a waiver from the FCC.

For smaller U.S. points, and for pure resale traffic, all carriers must report world total traffic data. Carriers may not consolidate pure resale data for an off-shore U.S. point and a domestic U.S. point, or for two off-shore U.S. points, without obtaining a waiver from the FCC. However, carriers may consolidate pure resale traffic for domestic U.S. points (the Conterminous United States, Alaska, Hawaii, and Puerto Rico).

REPORTING REQUIREMENTS FOR FACILITIES-BASED SERVICE

Country-by-country data (computer file required)	World total data* (computer file optional)
Alaska	American Samoa.
Conterminous U.S.	Baker Island.
Guam	Howland Island.
Hawaii	Jarvis Island.
Puerto Rico	Johnston Atoll.
U.S. Virgin Islands	Kingman Reef.
	Midway Atoll.
	Navassa Island.
	Northern Mariana Islands.
	Palmyra Atoll.
	Wake Island.

*Many points on this list are not served by U.S. carriers at this time. Carriers need not file data for points that they do not serve.

Attachment 1 contains a sample report for a facilities-based service. Attachment 2 contains a sample report for pure resale service.

1. Classification of Traffic Based on Billing Information

Facilities-based international traffic should be reported in three categories—billed to the United States point served, billed to an international point, and transiting the United States point served. Pure resale traffic should be reported to the pure resale billing category.[17] The categories for facilities-based services are described below:

U.S. Billed Traffic—Traffic billed to the United States point that is served has traditionally been referred to as originating or outbound traffic. Most calls billed to the United States are placed from within the United States. However, collect calls and calls using services such as country direct service are made from outside the United States to a telephone inside the United States and are also billed to the United States.[18]

Foreign Billed Traffic—Traffic billed to an international point has traditionally been referred to as terminating or inbound traffic. For example, a carrier serving Hawaii will report sent paid traffic from the U.S. Virgin Islands as foreign billed traffic—U.S. Virgin Islands.[19] Most traffic that will be reported as foreign billed will have terminated in the carrier's service area, and will have originated from another international point. However, collect calls that are made from the United States point served to an international point are also billed to that international point. Thus, a collect call from the United States to Japan must be reported as a foreign billed call.

Transiting Traffic—Transiting traffic originates from an international point, is routed through the United States point served, terminates at an international point, and is billed to an international point. Transiting traffic must be reported by the U.S. carrier according to the country in which the service is billed. Typically, this will be the country where the call originated. For example, sent

[17] Although pure resale traffic could be classified as U.S. billed, this manual provides a separate pure resale billing code.

[18] A customer can now originate a call in a foreign country, have it routed through a U.S. point to a second foreign country, and have the call billed to the U.S. point. Such calls are not transiting traffic, and must be classified as U.S. Billed Traffic. Each call is treated as two calls for settlement purposes. Accordingly, such calls should be reported as U.S. Billed Traffic to both the country of origin and the country of destination. The billed revenue for the call should be divided in proportion to component charges or charges that would be billed if two calls had been made.

[19] The phrase "foreign billed" means that the traffic is billed to another international point. The international point can be a United States or a foreign point.

paid traffic originating in Japan, routed through Guam, and terminated in Austria would be reported by the carrier serving Guam as transiting traffic from Japan. A collect call from Wake Island to Hawaii that is routed through Guam would be reported by the Guam carrier as transiting traffic billed to Hawaii.[20]

The foreign billed and transiting categories may not exist for some services. For example, carriers may provide private line service that is billed in the United States, or billed in a foreign country, but would not offer "transiting" private lines. Similarly, a carrier may not have foreign billed service for some international points. Carriers need not report service data for billing categories that are not provided or for international points that are not served.

2. Filing Data on a Country-by-Country Basis

U.S. carriers potentially provide service between U.S. points and all of the world points listed in the FCC publication International Points. Facilities-based carriers must file country-by-country data for facilities-based international message telephone, international message telegraph, Telex, and six categories of private line services. Carriers must file separate data for each of the listed world points that they serve with two exceptions:

(a) Carriers may omit points that would represent domestic traffic. For example, a report for Alaska need not show traffic to Hawaii.

(b) Carriers may consolidate traffic as indicated by the summary code shown in International Points. For example, world point Scotland has international point code 280 and summary code 326. The summary code is the international point code for the United Kingdom. Traffic between a U.S. point and Scotland may be reported to country code 280 or to country code 326.[21] The same traffic, however, may not be reported to more than one country code.

There are no miscellaneous country codes. All traffic must be reported to a code associated with one of the points listed in International Points. Contact the Industry Analysis Division if traffic exists for an international point that is not currently listed. The Industry Analysis Division will assign a code for that point.

As noted above, international points have been grouped into ten world regions. These regions and the reporting codes for providing subtotals are listed in section 2–F below. Carriers must file world totals and subtotals by region for each facilities-based service that they provide. Carriers may omit countries or regions of the world that are not served.

3. Measurement of Traffic and Revenues

This section provides guidance for measuring traffic and revenues. Each service has unique characteristics that create special concerns. For example, a customer who places a telephone call to a foreign country may not be aware that the call originates in a Local Access Transport Area (LATA), crosses a Point of Presence (POP) to the interexchange network of an interlata carrier, is switched through international facilities to a foreign carrier, and is then terminated in a foreign local exchange. The customer need not consider the various arrangements under which several carriers share the revenue from the call. The private line customer, on the other hand, leases a specific amount of capacity between two specified points. The customer may use a variety of arrangements to get traffic to and from the leased circuit, and may use the circuit for several types of communications. The customer is concerned with the charges for each specific link in its network.

These and other differences between message and private line services lead to differences in the ways that carriers should measure traffic and revenues. The following sections cover message and private line services. The guidelines should be used for other international services as appropriate.

a. *Message services.* For each message service (telephone, telegraph and telex) carriers must report data on three types of traffic (U.S. billed, foreign billed, and transiting). For each of these three types of traffic, carriers must report traffic and revenue data on a calendar year basis.[22] Message counts, minute counts, word counts, bill revenues, settlement receipts due, settlement payments owed, and retained revenues should be based on traffic actually carried during the year. The amounts reported should not reflect prior year adjustments.[23] Accordingly, carriers cannot legitimately report negative amounts in the message, minute, revenue, or settlement data fields.

i. *Message service traffic measures.* Carriers must report the number of billed messages for international message telephone, international message telegraph and telex services, except that messages may be omitted for transiting traffic.

Carriers must report the number of minutes for international message telephone and telex services. For facilities-based service, carriers should report the number of minutes upon which settlements will be calculated.[24] The settlement process is used by U.S. and foreign carriers to compensate each other for handling traffic for each other. The compensation is based on conversation minutes. Settlement minutes averaged 5% to 6% less than billed minutes for traffic billed in the United States for 1988 through 1990. Since carriers do not make settlement payments for their pure resale traffic, the number of minutes should be based on billing information.

Word counts must be reported for international message telegraph service. Carriers should report the number of words used for settlement purposes.

All message data must be reported on a message or end-to-end basis. This means that calls should be reported based on the billing location and the ultimate points of origin or terminus.[25]

ii. Message service revenues and settlement information. Carriers must report the billed revenues, settlement receipts due, settlement payments owed, and revenues retained for each message service. Billed revenues are equal to the amounts that carriers billed to customers for service at tariffed rates.

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[20] In this example, the carrier serving Wake Island would include the call with world total foreign billed traffic. The carrier serving Hawaii would include the call with U.S. billed traffic—Wake Island. The carrier serving Guam would include the call with Transiting traffic—Hawaii. The same call would be included in three § 43.61 data schedules.

[21] Scotland is part of Great Britain, which is a part of the United Kingdom. Great Britain is included in International Points with country code 117. A carrier could aggregate Scotland data with Great Britain traffic, but it may not report the same traffic to both Scotland and Great Britain.

[22] Section 43.61(a) of the Rules.

[23] The data must reflect traffic for the calendar year being reported. Settlement disputes have prevented carriers from reporting foreign billed traffic for significant periods of time. A carrier may receive settlement data for a period greater than a whole year. The carrier should identify the amounts relevant to the reporting year and use footnotes to report amounts that should be attributed to prior year reports. The calendar year data may not include prior period adjustments or corrections.

[24] A single conversation minute can result in two settlement minutes. For example, arrangements exist so that a call may originate in Saudi Arabia, be routed to the United States and then directed to Germany. The call is billed in the United States as a single call. The U.S. carrier settles with both Saudi and German telephone companies based on conversation minutes. Thus, two settlement minutes would be associated with each conversation minute.

[25] At one time carriers were required to report the same traffic on two schedules. The circuit traffic (CT) schedule showed all traffic that went to or from a particular country, including traffic that transited to a different country. The message traffic (MT) schedule only included traffic that originated or terminated in a particular country. The current requirements are most similar to the MT schedule.

The bill revenues should not be adjusted to reflect non tariffed discounts or discounts that result when international minutes are factored into total usage discounts, unless the international tariff specifies the precise calculation of the international portion of the discount. Billed revenues should not be reduced to reflect uncollectible or transit fees expenses.

U.S. carriers have contractual relationships with foreign carriers so that telephone calls can be made between local exchanges in the United States and local exchanges in foreign countries. The foreign carrier in the relationships is usually called the foreign correspondent. Accounting rate agreements specify the amounts that carriers pay to their foreign correspondents on a per minute or similar basis. When the U.S. carrier bills for an international call, it owes a settlement amount to the foreign correspondent. Where the foreign correspondent bills an international call, the U.S. carrier is owed a settlement amount. The carriers usually balance the amounts due and make net payments. The amounts due to U.S. carriers, including separate transit fees, if any, are referred to herein as settlement receipts. The amounts owed by U.S. carriers to foreign correspondents, including separate transit fees, if any, are referred to herein as settlement payments. Settlement payments do not include the amounts that pure-resale carriers pay to underlying U.S. carriers. The U.S. carrier retained revenue is equal to billed revenue plus settlement receipts minus settlement payments.

U.S. carriers should not have billed revenue for foreign billed or transiting traffic. U.S. carriers should not have settlement receipts for U.S. billed traffic. U.S. carriers may owe settlement payments for U.S. billed and transiting traffic.

Accounting agreements may be denominated in dollars, foreign currency units, or other monetary measures. All revenue and settlement payment information must be stated in U.S. dollars regardless of the terms of the accounting agreements or industry practices.

b. *Private line services.* This section provides guidance for reporting private line circuit counts and revenues on a country-by-country basis.

i. Number of leased circuits. A leased circuit is a single leased channel of communications that links two specific points. Leased circuits should be categorized according to the six private line categories shown on page 18. Circuits are not categorized according to how the customer actually uses them. Counts of leased circuits should be provided as of December 31 of the year for which data is being reported. Carriers should not attempt to convert part day into equivalent full day circuits.

ii. Leased circuit revenue. Private line and leased circuit service revenues should include only the revenue derived from the international portion of the communications used to provide service, and should not include revenue for circuits that originate and terminate within the United States. Private line revenues do not include billings made on behalf of domestic or foreign carriers for service provided by those carriers. Private line revenues should include revenue billed by a foreign carrier on behalf of the U.S. carrier for service provided by the U.S. carrier. Carriers must report the total private line revenues for the calendar year for which data is being reported.

4. Data Requirements by Service.

The following table summarizes the § 43.61 data filing requirements by service category:

	Facilities-based service	Pure resale service
International message telephone service.	By country and billing type: Messages, minutes, carrier revenues, settlement payments, retained revenue	Countries served. World totals by billing type: Messages, minutes, carrier revenues, settlement payments, retained revenue.
International message telegraph service.	By country and billing type: Messages, words, carrier revenues, settlement payments, retained revenue	World totals by billing type: Messages, words, carrier revenues, settlement payments, retained revenue.
Telex service	By country and billing type: Messages, words, carrier revenues, settlement payments, retained revenue	World total by billing type: Messages, words, carrier revenues, settlement payments, retained revenue.
Private line	By country and service category: leased circuits, revenues	
Each other international services	Region totals by billing type: Messages, minutes, words, leased circuits, carrier revenues, settlement payments, retained revenue as appropriate	World total by billing type: Messages, minutes, words, carrier revenues, settlement payments, retained revenue as appropriate.

D. Filing Procedures

Section 43.61(a) directs carriers to file reports by July 31, reporting service actually provided in the preceding calendar year. Section 43.61(c) provides that carriers shall submit a revised report by October 31 identifying and correcting errors in the July 31 filing. Carriers do not need to file revised data where corrected figures are within five percent of the figures filed in the July 31 filing. Carriers must refile a corrected version of each data record on which one or more data elements was found to be in error by more than five percent. The five percent guideline covers fluctuations in traffic or revenue totals due to corrections and true-ups that occur during the billing and settlement process. This exception is not intended to cover instances where carriers discover that they have filed erroneous data due to procedural mistakes made while preparing § 43.61 reports.

The following schedule details the number of copies required and the location to which those copies should be delivered. This schedule applies to the July 31 and October 31 filings. Carriers that provide only pure resale international services are not required to file data on diskette.

	Transmittal letter	Paper copies	Diskette
FCC Secretary, 1919 M Street, N.W., Room 222, Washington, D.C. 20554	1	—	—
FCC Common Carrier Bureau, Industry Analysis Division, 1250 23rd Street, N.W., Room 10, Washington, D.C. 20554	1	2	*1
Downtown Copy Center, 1919 M Street, N.W., Room 246, Washington, D.C. 20036	1	1	*1

* Pure resale traffic, and summary data for smaller U.S. points need not be filed on diskette. See page 20.

Paper copies must contain data that are identical to the data filed on disk. Page headings must clearly indicate the filing entity, the United States point covered, and the service being reported. Column headings must describe the data contained in each column.

The carrier must include footnote text to explain the specific circumstances of any data for the current period which differs materially from that for the previous period if the difference is not self-explanatory but was caused by unusual circumstances not explained in a previous report. The paper copies of the 43.61 data must include the text of the footnote. A data field is provided in the diskette record format to indicate that a footnote has been included in the paper copies. The paper copies should also contain any additional data or information that the carrier deems relevant or necessary to understanding the data it is required to file.

Carriers must certify the accuracy of the data submitted in FCC Report 43.61 by including a signed certification statement as the last page of the paper report. The text of the certification statement is included below:

Certification

I certify that I am an officer of _____; that I have examined the foregoing report and that to the best of my knowledge, information and belief, all statements of fact contained in this report are true and that said report is an accurate statement of the affairs of the above named respondent in respect to the data set forth herein for the period from _____ to _____.

Printed Name _____
Position _____
Signature _____
Date _____

Section 2—Diskette Format and Coding Instructions

A. Media and File Name for Traffic Data Filed on Disk

Data may be provided on 5¼" or 3½" floppy disks formatted for IBM or IBM compatible personal computers. Carriers serving more than one United States point should provide one file for each point served. All files may be included on the same disk. The record files should be named according to the following convention:

aaaaaaYY.436

where:

aaaaaa are 3 to 6 alpha characters that identify the filing entity and U.S. point
YY is the last two digits of the calendar year for which data is begin filed
.436 is the file extension, (short for 43.61)

For example—

ATTVI91.436 might signify AT&T's Virgin Islands data for 1991
GRPHNT91.436 might signify Graphnet's complete filing for 1991

B. Record Formats

The data files may contain comment records and data records. A comment record has a blank space (ASCII character 32 or " ") in the first position in the line, contains less than 132 characters, and ends with a carriage return. Comment records can be used to provide headings, formatting, and footnotes in the data file. Attachment 2 illustrates how a listing of the data file can be used as the paper copy of the data for filing purposes.

All data records must be provided using the record format set forth herein. Each record shall consist of a string of ASCII characters. Alpha fields should be left justified within the stated field boundary and may contain the ASCII characters "A" through "Z", "a" though "z", ",", ".", "—", "+", "/", "&", "#", "*", "|", ":" ";", "0" through "9", and blank spaces (ASCII character 32). Integer fields should be right justified within the field boundary, and may contain the ASCII characters "—", "0" through "9" and leading blank spaces, but no commas or other characters. The character "—" signifies a negative value and should appear in the field to the left of the value. Negative values are only possible for retained revenue, where the settlement payout owed exceeded the billed revenue for a switched service.

Each data record should contain the following fields:

Field	Data type	Justification within field	Field size	Record positions
1. Filing Carrier Name	Alpha	Left	15	1–15
2. Year of data	Integer	Right	2	16–17
3. U.S. Point served	Integer	Right	5	18–22
4. International Point or region	Integer	Right	5	23–27
5. Service code	Integer	Right	3	28–30
6. Footnote indicator	Alpha	Right	3	31–33
7. Description	Alpha	Left	36	34–69
8. Billing Type Code	Integer	Right	2	70–71
9. Data field #1	Integer	Right	12	72–83
10. Data field #2	Integer	Right	12	84–95
11. Data field #3	Integer	Right	12	96–107
12. Data field #4	Integer	Right	12	108–119
13. Data field #5	Integer	Right	12	120–131

The data fields are further described in Section 2–K below.

Data files can be created using standard editors, word processors spreadsheet programs, data base programs and custom programs. For example, to create a data file using a spreadsheet:

—Set the column widths to equal the field size shown above. Thus, the first column would be 15 characters wide.
—Enter alpha fields as labels, enter integers as numbers.
—Specify a generic or character oriented printer {the lotus 3.1 sequence would be </> <P>rint <P>rinter <O>ptions <A>dvanded <D>evice <N> ame}
—Set the left and top margins to 0, set the right margin to 132, and set the bottom margin as high as possible.
—Print to a file, rather than to the actual hardware device.

C. Filing Carrier Name Field

The filing carrier name should be between 3 and 15 characters. The name field should appear on all data records filed by the carrier, and should be identical for all records filed by the carrier.

D. Year of Data Field

This field should contain the last two digits of the year for which data is being filed. For example, the July 31, 1992 filing will contain data for 1991. Therefore, the year of data field would be "91". This would appear on every data record in the file.

E. U.S. Point Served Field

The U.S. Point served country code is used to indicate which United States

point is covered by the data record. The codes for United States points are in the range 1001 to 1999, and are the country codes shown in International Points. Contact the Industry Analysis Division if data should be filed for an Off-shore U.S. point that is not included in the report. The Industry Analysis Division will assign a country code for such points. All records in a file must have the same U.S. point code.

F. International Point or Region Field

Where records contain data for traffic between a U.S. point and a specific international point, the code for that international point should be taken from International Points and entered in the International Point field.[26] For example, the code 1 in the international point field would indicate that the record reports traffic between a United States point and Abu Dhabi. The international point code for region subtotal and world total summary records should be as follows:

International point code (record field #4)	Description (record field #7)
9001	Western Europe.
9002	Africa.
9003	Middle East.
9004	Caribbean.
9005	North and Central America.
9006	South America.
9007	Asia.
9008	Oceania.
9009	Eastern Europe.
9010	Other regions.
9999	World Total.

Note: Code 9010—Other regions, covers Antarctica and Maritime traffic.

Section 1–C–2 of this manual explains which data must be filed on a country-by-country basis, and which data need only be filed on a summary basis. Facilities-based carriers must file regional and world total traffic and revenue subtotals for each service that they provide.[27] Carriers must file separate world total traffic and revenue by U.S. point for the pure resale traffic that they provide.[28]

The international point code 9999 should be used if the record contains world total data for a service. International point code 9999 is not a miscellaneous or "all other" code. This code represents a total for all international traffic between a United States point and the rest of the world. Where country-by-country data is filed, records with international point code 9999 contain the totals of records with the same U.S. region, service, and billing codes, and with international point codes between 1 and 1999. Country-by-country records would only be excluded from the total if they contained domestic traffic, e.g. traffic between two domestic U.S. points.

G. Service Code Field

The following service codes should be used:

1. International message telephone service
2. International message telegraph service
3. Telex Service
4. Private Line—Voice
5. Private Line—up to 1200 bits per second (bps)
6. Private Line—1201 bps to 9600 bps
7. Private Line—9601 bps to 30 Million bps (Mbps) or .01 Megahertz to 18 Megahertz
8. Private Line—greater than 30 Mbps to 120 Mbps or 18 Megahertz to 72 Megahertz
9. Private Line—greater than 120 Mbps or greater than 72 megahertz

99. New, Miscellaneous and Other Services

H. Footnote Code Field

The footnote code field should be used to indicate that the paper copy of the 43.61 data contains a footnote concerning the data record. The carrier must include footnote text to explain the specific circumstances if any data for the current period differs materially from that filed for the previous period and the difference is not self-explanatory but was caused by unusual circumstances not explained in a previous report. The paper copies of the 43.61 data must include the text of the footnote. These footnotes should be labeled sequentially from 1 to 999, and the footnote should be included in the footnote code field in the data record. Alpha numeric codes may be used only if the carrier needs to provide more than 999 footnotes in the report.

Footnotes and other comments may be included in the data file as comment records. Any record with a blank space (" ") in the first position will be treated as a comment record.

I. Description Field

For service codes 1 through 9, this field should contain the name of the international point or world region. The name should be identical to the international point name published in International Points. Region names are shown in section 2–F above.

For service code 99, this field should be used to identify the service provided.[29] This field is critical because the carrier may use service code 99 for several different types of service. Records with service code 99 will not be accepted unless there are at least 10 characters other than blank spaces in the service description field. All records pertaining to the same Other International Service should have identical service descriptions in this field.

J. Billing Type Code Field

The billing type code indicates whether the record contains facilities-based traffic and revenue information (codes 1 through 3), or whether the record simply indicates that the international point is served (code 4), or whether the record contains traffic and revenue data for a pure resale service (code 5).[30] The following billing type codes should be used:

1. *U.S. Billed*—Indicates that facilities-based service was billed to the United States point served. The United States point is indicated by the U.S. Region Code. The service could be a message service or a private line service
2. *Foreign Billed*—Indicates that facilities-based traffic was billed to the international point. The international point is identified by the international point code. The international point may be another U.S. point
3. *Transiting*—Indicates that facilities-based traffic was billed to the international point identified by the international point code. Transiting traffic does not originate or terminate in the United States point indicated by the U.S. region, but passes through that point
4. *Non-traffic record*—Is used by carriers who must list international points served, but who are not required to file traffic or revenue data on a country-by-country basis. Records with billing code 4 may be used to list countries served by pure resale carriers, and need not show any traffic or revenue data in fields 9 through 13
5. *Pure resale*—Pure resale traffic, provided by reselling the U.S. billed traffic of another carrier

Facilities-based carriers will typically file more than one record for each service for each international point served. One record will contain the U.S. billed traffic, one will contain the foreign billed traffic, and one will contain the transiting traffic. Records for

[28] There is no miscellaneous or "all other" country code. All traffic must be reported to a specific point. Country-by-country traffic and revenue data for points in a region should total to the amount reported for that region using region codes. Settlement and traffic adjustments which cannot be tied to specific points should be allocated to all appropriate points.

[27] Country-by-Country and region totals are not required for smaller international points. See page 20.

[28] Carriers may consolidate pure resale traffic for all domestic U.S. points that they serve. These points consist of Alaska, Hawaii, the conterminous U.S. and Puerto Rico.

[29] The service should be fully described in the paper copy of the § 43.61 filing.

[30] Carriers are not obligated to file data for pure resale services on diskette. The code is included in the manual to facilitate filing by those who wish to make diskette filings.

private line and other services will typically use billing code 1. Pure resale carriers may file one record with billing code 4 for each point served for each service provided. Pure resale carriers may provide total international traffic and revenue by service using international point code 9999, and billing code 5.

K. Data Elements Number 1 Through No. 5 (Traffic, Circuits, Revenue and Settlements Information)

There are five data element fields, each of which is 12 characters wide. These fields should contain right justified integer values with no commas, periods, or other punctuation marks. Data should be rounded to the nearest dollar. The contents of the data field will vary depending on the type of service. Section 1–C–3 describes the precise types of information that must be provided.

Service code	Data field #1	Data field #2	Data field #3	Data field #4	Data field #5
1 [1]	Messages [2]	Minutes	Billed and settlement revenue [3].	Settlement payments	Retained revenue.
2 [1]	Messages [2]	Words	Billed and settlement revenue [3].	Settlement payments	Retained revenue.
3 [1]	Messages [2]	Minutes	Billed and settlement revenue [3].	Settlement payments	Retained revenue.
4–9	Leased circuits	(No data)	Revenue	(No data)	(No data)
99	Volume measures [4]	Volume measure [2]	Billed and settlement revenue [3].	Settlement payments if appropriate.	Retained revenue.

[1] Records with Billing Type Code 4 (used by pure resale carriers to show international points served) can omit data fields #1 through #5.
[2] Messages can be omitted for transiting traffic.
[3] Records for U.S. Billed traffic will contain billed revenue. Records for Foreign Billed and Transiting traffic will contain settlement amounts due from foreign correspondents.
[4] For Other International Services (Service Code 99), use the volume and revenue measures that are appropriate. For example, the appropriate volume measures might be messages, leased circuits, minutes or some other type of data. The paper copy of data must indicate the volume and revenue measures provided.

List of Subjects in 47 CFR Part 43

Communications common carriers, International traffic reporting requirements.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–18113 Filed 8–4–92; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 57, No. 151
Wednesday, August 5, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 91-AEA-20]

Proposed Establishment of Transition Area; Myerstown, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA is proposing to establish a 700 foot Transition Area at Myerstown, PA, to support the development of a new standard instrument approach procedure (SIAP) to the Deck Airport, Myerstown, PA. The additional airspace would provide greater segregation between aircraft operating under instrument flight rules from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before August 31, 1992.

ADDRESSES: Send comments on the rule in triplicate to: George Dodelin, Manager, System Management Branch, AEA-530, Docket No. 91-AEA-20, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553-0857.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 91-AEA-20". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a 700 foot Transition Area at Myerstown, PA. Transition area descriptions are published in FAA Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. A description of the proposed transition area would subsequently be published in the Handbook.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; E.O. 10854; 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is proposed to be amended as follows:

Section 71.181 Designation

* * * * *

AEA PA TA Myerstown, PA
Decks Airport (lat. 40°21'08"N., long. 76°19'52"W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Decks Airport.

* * * * *

Issued in Jamaica, New York, on June 9, 1992.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 92-19411 Filed 8-4-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 92-AEA-03]

Proposed Change of Operating Hours for Control Zone; Hagerstown, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA is proposing to modify the operating hours of the Hagerstown, MD, Control Zone to coincide with the established operating hours of the air traffic control tower located at the Washington County Regional Airport, Hagerstown, MD. This is due to seasonal changes concerning the operating hours of the control tower. The effective hours of operation will be carried in future editions of the Airport/Facility Directory, or by the issuance of a Notice to Airmen (NOTAM).

DATES: Comments must be received on or before August 31, 1992.

ADDRESSES: Send comments on the rule in triplicate to: George Dodelin, Manager, System Management Branch, AEA-530, Docket No. 92-AEA-03, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553-0857.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commentors wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92-AEA-03". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to change the operating hours of the Hagerstown, MD, Control Zone. Control zone descriptions are published in FAA Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1. A description of the control zone as amended would be published in the Handbook.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a 'significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; E.O. 10854; 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is proposed to be amended as follows:

Section 71.171 Designation

* * * * *

AEA MD CZ Hagerstown, MD
Washington County Regional Airport, Hagerstown, MD. (lat. 39°42'28"N., long. 77°43'47"W.)
Hagerstown VOR (lat. 39°41'52"N., long. 77°51'22"W.)
Washington County Regional Airport ILS Runway 27 Localizer (lat. 39°42'22"N., long. 77°44'42"W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.1-mile radius of Washington County Regional Airport and within 2.7 miles each side of the Hagerstown VOR 239° radial and 059° radial extending from 7.4 miles southwest of the VOR to 1.8 miles northeast of the VOR and within 2.7 miles each side of

the Hagerstown VOR 084° radial extending from the 4.1-mile radius to the VOR and within 4 miles each side of the Washington County Regional Airport ILS Runway 27 localizer course extending from the localizer to 11.8 miles east of the localizer. This control zone is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York, on June 9, 1992.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 92-18412 Filed 8-4-92; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Parts 19, 23, and 245

Request for Comments Concerning the Guides for the Jewelry Industry, the Guides for the Watch Industry and the Guides for the Metallic Watch Band Industry

SUMMARY: The Commission has extended for 30 days the time period within which written comments will be received on the changes proposed by the Jewelers Vigilance Committee Inc. to the Guides for the Jewelry Industry, the Watch Industry and the Metallic Watch Band Industry. The extension also applies to comments on the questions posed by the Commission about the costs and benefits of the guides. The original request for comment was announced in the Federal Register on June 12, 1992 (57 FR 24998).

DATE: Comments will be accepted for the record until September 25, 1992.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Washington, DC 20580. Copies of the June 12, 1992 Federal Register notice, the petition, the current guides and a document comparing the two are on the public record and can be viewed in or obtained from the Public Reference Section, room 130, Federal Trade Commission, 6th and Pennsylvania Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Susanne S. Patch, Attorney, Federal Trade Commission, room S-4631, 601 Pennsylvania Ave. NW., Washington, DC 20580. Telephone: 202/326/2981.

SUPPLEMENTARY INFORMATION: The Commission has received a request for a 30-day extension of the comment period from the American Watch Association to allow it time to take formal action to review, evaluate and respond to the proposed revisions.

The Commission has determined to grant the extension. Accordingly, comments from any interested party will be accepted until September 25, 1992.

Authority: 15 U.S.C. 41-58.

List of Subjects in 16 CFR Parts 19, 23, and 245

Advertising, Labeling, Trade practices, Watches, Watch bands and jewelry.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-18537 Filed 8-4-92; 8:45 am]

BILLING CODE 6750-01-M AND

16 CFR Part 453

Trade Regulation Rule: Funeral Industry Practices

AGENCY: Federal Trade Commission.

ACTION: Second request for public comment on petition by New York State for statewide exemption from trade regulation rule.

SUMMARY: The Federal Trade Commission seeks additional public comment on the request by New York State for exemption from the Trade Regulation Rule concerning Funeral Industry Practices, 16 CFR part 453. If the petition is granted the FTC Funeral Rule will not be in effect in New York, to the extent specified by the Commission, for as long as the state administers and enforces effectively the state requirements. A request for public comment on the petition was published in the Federal Register on March 18, 1991. The comment period closed on June 17, 1991. Since the close of the previous comment period, the Commission has received additional information concerning cuts in the budget and staffing for the state agency that administers and enforces state law and regulations pertaining to the funeral services industry. Therefore, the Commission is now requesting comment on the question of what effect these cuts have had on the ability of the state to effective administer and enforce the state requirements.

DATES: Public comments will be accepted until September 4, 1992.

ADDRESSES: Comments should be captioned: "New York Petition for Statewide Exemption from the Funeral Rule," FTC File No. 215-46, and should be submitted to the Office of the Secretary, Room 159, Federal Trade Commission, Washington, DC 20580.

Copies of the petition can be obtained from the Public Reference Room, room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2222.

A copy of the petition is also available for inspection at the FTC New York Regional Office, 150 William Street, suite 1300, New York, New York 10038.

FOR FURTHER INFORMATION CONTACT: Carol Jennings, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326-3010.

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 5, 1990, the New York State Department of Health filed a petition for exemption for New York State from the FTC's Funeral Rule, 16 CFR part 453.[1]

Section 453.9 of the Funeral Rule provides:

If, upon application to the Commission by an appropriate state agency, the Commission determines that:

(a) There is a state requirement in effect which applies to any transaction to which this rule applies; and

(b) That state requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this rule; then the Commission's rule will not be in effect in that state to the extent specified by the Commission in its determination, for as long as the state administers and enforces effectively the state requirement.

A prior request for public comment on the New York petition was published in the Federal Register on March 18, 1991.[2] The 90-day comment period closed on June 17, 1991. Only one comment was filed.[3] Additional information concerning the interpretation of New York law and the enforcement of that law was provided by the New York Department of Health by letters dated July 2, 1991, December 19, 1991, January 30, 1992, and February 20, 1992.[4]

[1] The New York petition has been placed on the public record as Document No. XXIII-22, FTC File No. 215-46.

[2] 56 FR 11381.

[3] Document No. XXIV-62, FTC File No. 215-46. The commenting party was William C. Klein, of Rochester, New York, a consumer representative on the New York State Funeral Directing Advisory Board. He urged that the petition be granted.

[4] These documents have been placed on the public record as Document Nos. XXIII-30, 31, 32, 33, FTC File No. 215-46.

Recently the Commission has received information from the New York Department of Health showing that since the petition for exemption was filed, there have been substantial cuts in the budget and staffing of the Bureau of Funeral Directing.[5] (The Bureau of Funeral Directing, located within the Division of Public Health Protection of the Department of Health, has responsibility for enforcement of the laws and regulations governing funeral directing.) In addition to providing updated information concerning budget and staffing, the letter from the Department of Health describes measures that have been taken by the Bureau of Funeral Directing to attempt to compensate for the cuts in available resources. In conclusion, the letter reiterates the request that the Commission grant the New York petition for exemption from the Funeral Rule.

This second Commission request for public comment on the New York petition for exemption from the Funeral Rule is limited to the question of whether the cuts in budget and staffing for the Bureau of Funeral Directing have adversely affected the ability of the state to administer and enforce its laws and regulations effectively.

II. New Information Concerning the Administration and Enforcement of State Law

The January 1990 petition indicated that the Bureau of Funeral Directing had 11.5 staff positions, including a director, an assistant director, six field investigators, and 3.5 clerical positions. Currently, however, there are six staff positions filled in the Bureau. These six positions include a director, a supervisory investigator, a project director, and three clerical positions.[6] Thus, the Bureau has been reduced by 5.5 positions, including 5 field investigators and a half-time clerical position.

The budget for the fiscal year ending March 31, 1989 (the most recent year indicated in the petition) was $445,300. The budget for the fiscal year that ended March 31, 1992 was $307,396. During the intervening years, the budget was $303,878 (year ended March 31, 1990) and $275,127 (year ended March 31, 1990). Thus the budget has been cut by about 31 percent from the level indicated in the petition for exemption.

The petition stated that routine inspections of funeral firms were conducted on a triennial basis. However, the information recently received from the Department of Health is that during 1991 the Bureau of Funeral Directing staff completed 251 funeral firm inspections. The petitions indicated that there are 2,199 registered funeral firms in New York State. Therefore, it is clear that routine inspections have been greatly reduced and can no longer be performed every three years.

The letter from the Department of Health describes various measures taken by the Bureau of Funeral Directing to ensure compliance with the law despite the diminution of enforcement resources. To some extent, investigators from other bureaus within the Department of Health have been used by the Bureau of Funeral Directing. For example, the letter states that in July 1990, seven investigators from other bureaus were assigned to the Bureau of Funeral Directing to complete investigations in the New York metropolitan area. In addition, an investigator from the Bureau of Controlled Substances provides continuing assistance in the inspection of new funeral firms and in conducting complaint investigations.

Procedures used by the Bureau have been changed in response to the staffing cuts. The Bureau now requires that all funeral firms requesting registration,[7] or amending their registration, submit copies of the general price list and itemization statement form. These documents are audited at the Bureau so that field investigator time can be used for complaint investigations. Inspections conducted pursuant to complaint investigations receive priority over routine inspections. In addition, the letter states that more investigations are concluded by stipulated settlements rather than through time-consuming litigated hearings.

The letter further states that all complaints are investigated and that all investigations include an inspection of the funeral home. In 1991, the Bureau received 52 complaints, all of which resulted in an investigation. During that same year, 27 agreed stipulations and orders were entered. The civil penalties assessed in these 27 matters totalled $33,200.[8] In addition, during 1991, three funeral firms were sent warning letters, and 12 investigations were closed.

The Department of Health is considering proposing to the state legislature the establishment of a special revenue fund, to be derived from funeral firm registration fees, to support the activities of the Bureau of Funeral Directing. If such a fund were approved by the legislature, it might enable the Bureau to return to its previous staffing level. However, it does not appear that any such proposal has yet been submitted to the legislature, and the outcome of such a proposal cannot be predicted at this time.

III. Questions for Public Comment

1. What has been the impact of budget and staffing cuts upon the enforcement program of the New York Department of Health's Bureau of Funeral Directing?

2. Are the New York laws and regulations governing funeral transactions administered and enforced effectively at the present time?

3. Should the Federal Trade Commission grant the petition by the State of New York for statewide exemption from the Funeral Rule, notwithstanding the budget and staffing cuts that have taken place in New York's Bureau of Funeral Directing?

List of Subjects in 16 CFR Part 453

Funerals, Funeral homes, Price disclosures, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-18536 Filed 8-4-92; 8:45 am]

BILLING CODE 6750-01-M

[5] This information is contained in letters dated May 5, 1992 and May 14, 1992. These documents have been placed on the public record as Document Nos. XXIII-36, and 37, FTC File No. 215-46. The FTC request for this information is Document No. XXIII-34, FTC File No. 215-46.

[6] Information concerning the nature of the six staff positions was communicated to FTC staff by telephone by the Director of the Bureau of Funeral Directing.

[7] According to the petition, New York funeral firms must register with the state on a biennial basis.

[8] In 1989, there were 31 stipulations and orders with civil penalties of $27,100. In 1990, there were 32 stipulations and orders with civil penalties totalling $24,100.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Application and Closing Out of Offsetting Long and Short Positions; Exception

AGENCY: Commodity Future Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend rule 1.46, 17 CFR 1.46, by providing an additional exception to the general rule pertaining to the application, and closing out, by a futures commission merchant ("FCM") of offsetting long and short commodity

futures or option positions in a customer account. This additional exception would apply to purchases and sales of commodity futures or option contracts for the separate accounts of a customer by a commodity trading advisor trading pursuant to separate "trading programs."

In addition, the Commission is proposing to delete Commission rule 1.46(e)(2), which requires an FCM to provide the customer with a quarterly consolidated account statement where the customer's trading in at least one separate account is directed by the FCM and offsetting long and short positions are being held open. The Commission is requesting comment specifically on these proposed rule amendments, as well as general issues regarding the continued efficacy of rule 1.46.

DATES: Comments must be received by October 5, 1992.

ADDRESSES: Comments should be sent to Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, and should make reference to "Revision to Rule 1.46."

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-6980 or (202) 254-8955, respectively.

SUPPLEMENTARY INFORMATION:

I. Introduction

Commission rule 1.46(a) generally requires that an FCM close out a customer's previously-held short or long commodity futures or option position if an offsetting purchase or sale is made for the customer's account, and that an FCM furnish promptly to the customer a purchase-and-sale statement showing the financial result of the transactions. Rule 1.46(b) generally provides that if the short or long position held in the account is greater than the quantity purchased or sold, the FCM must apply the offsetting purchase or sale to the oldest portion of the previously-held short or long position, unless the customer or option customer specifically instructs otherwise.

There are currently seven exceptions to rule 1.46, and the Commission has requested comment on a petition for rulemaking proposing an eighth exception for error accounts.[1]

Commission staff and a commenter, in connection with the Commission's ongoing general review of its rules, has suggested that the Commission create an additional exception from the rule for positions traded on behalf of a customer by a commodity trading advisor ("CTA") trading "separate and independent systems." To the extent that they were marketed, the "trading systems" would have to be marketed as separate. The commenter suggests that:

> There are trading advisors who have separate and independent systems which are marketed as such. Customers may trade money with several systems at the same time by establishing one or more accounts with one or more FCMs. ([I]f both accounts are with the same FCM that FCM must close out the [offsetting] position in [the] account * * * . However, if the accounts are with two FCMs the position need not be closed out. Such a result makes no sense. Nor does it make sense to claim that failure to close out the position leads to misleading open contracts statistics. Since both of the positions were opened for a valid economic reason pursuant to separate trading systems and backed by separate margin requirements, they should not be required to be offset.

In addition, the commenter suggested that Commission rule 1.46(e)(2), 17 CFR 1.46(e)(2), be deleted. Commission rule 1.46 requires that an FMC provide the customer with a quarterly consolidated account statement where the customer's trading in at least one separate account is directed by the FCM, or an associated person of the FCM, and offsetting long and short positions are being held open.[2] This quarterly report includes the same information furnished to a customer on a required monthly statement. See, 17 CFR 1.33(a) (1992). The commenter suggested that although the quarterly consolidated report provided no new information to the customer, it nevertheless constituted an "administrative burden on FCMs."

II. The Proposed Revisions

The Commission believes that there may be merit to the suggested rule amendments. Accordingly, the Commission is proposing to add an exception to the requirements of Commission rule 1.46 for trading done on behalf of a customer by a CTA trading separate systems in separate accounts and to delete the requirement that an FCM which directs trading for a customer in a separate account and holds open offsetting positions provide the customer a consolidated quarterly report.

The primary effect of this proposed exception from the general provision of rule 1.46 will be to permit CTAs to trade for their customers separate trading systems through the same FCM. Currently, this type of trading would have to be effectuated through more than one FCM. As proposed, the Commission is not specifically defining "separate systems." However, the Commission is proposing to require that to the extent that the trading programs are marketed, they be marketed as separate systems.

The Commission, based upon its experience with the current rule, has reevaluated the need for the currently required quarterly report. Although as the Commission previously noted, the consolidated quarterly statement might have provided a ready tabulation of the accounts' position, as a whole,[3] all of that information nevertheless is available to the customer on the customer's monthly statement. Accordingly, deleting this requirement will result in the reduction of an administrative and paperwork burden on FCMs while not reducing the information provided to the customer with which the customer can calculate the account balance. Accordingly, the rule, as proposed to be amended, should still provide customers with adequate protections through the disclosure requirement and the monthly report, which are being retained.

III. General Issues for Comment

As discussed above, there are currently seven exceptions to the rule. The Commission is proposing an

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[1] See, 57 FR 26801 (June 16, 1992). The seven types of transactions that currently are exempt include: (1) Purchases or sales of commodity options held by commercial interests in the underlying commodity that are economically appropriate to the reduction of risks for the conduct and management of a commercial enterprise; (2) purchases or sales constitution "bona fide hedging transactions" as defined in Commission rule 1.3(z); (3) sales during the period for, and for the purpose of, making delivery on a futures contract; (4) purchases or sales made in the separate accounts of a commodity pool directed by two or more unaffiliated commodity trading advisors acting independently; (5) purchases or sales made by a leverage transaction merchant constituting cover of its obligations; (6) purchases or sales made in the separate accounts owned by a futures or option customer where the persons directing the trading are unaffiliated with, and act independently of, each other person directing trading for a separate account; and (7) purchases or sales made in the separate accounts of a person granted an exemption under Commission rule 150.3.

[2] Commission rule 1.46(e) also requires that the FCM furnish to the customer a written statement disclosing that offsetting long and short positions held open in separate accounts may result in the charging of additional fees and commissions and the payment of additional margin, although the positions will result in no additional market gain or loss.

[3] 51 FR 37196, 37199 (October 20, 1986).

additional two, one in this notice. In light of the increasing number of exceptions to the rule, the Commission believes that it is appropriate to consider whether the rule, as a whole, remains efficacious. That is, is the rule continuing to meet its intended objective, or have the increasing number of exceptions undercut the rationale for maintaining the rule? More fundamentally, the Commission is reviewing whether the benefit resulting from the rule continues to justify its costs, or whether there are alternatives that would be superior.

Commission Rule 1.46, first promulgated by the Commodity Exchange Authority in 1948, apparently serves two regulatory purposes. Explicitly, it was promulgated "in aid of the prohibition against wash sales and fictitious sales." Thus, it serves to address market integrity, helping to ensure the accuracy of market information including actual open interest. Implicitly, it also provides some customer protection, offering prophylactic protection that offsetting customer positions, generally in a discretionary account, are held open only for bona fide purposes, and not for such improper purposes as wrongful allocation of trades, or unnecessary commission-fee generation. It may also protect against the inadvertent holding of offsetting positions into the delivery period.

To the extent that the rule results in a more accurate indication of actual open interest, providing a guide to the relative liquidity of the market and thereby enhancing the value of the prices generated by the futures and options market, its benefit is a generalized one, available to all those trading in the market or who rely on the futures and options markets for pricing. In addition, the rule may provide a benefit to customers in the form of customer protection from certain potentially abusive practices relating to the holding open of offsetting positions for other than bona fide reasons. The cost of the rule, however, is borne by market professionals and participants. This cost may be in the form of less flexibility and in the direct cost of tracking individual accounts for compliance with the rule and with its exceptions.

In order better to consider these issues, the Commission requests that commenters address the following questions:

1. Do the benefits to customers of the prophylactic protections against possible abuse of accounts outweigh the customer's cost in terms of flexibility in choosing trading programs? To what degree does the consolidated quarterly account statement provide customers with a clearer picture of the over-all performance of trading in the account?

2. Would deletion of the rule diminish the reliability and accuracy of the open interest information, and if so, how serious is this expected loss?

3. Would a requirement that offsetting positions which were held open be closed only through a pit transaction, exchange of futures for physicals or delivery, address adequately concerns over the accuracy of open interest information? Assuming that the offset of such positions through one of these types of transactions must not run afoul of prohibitions on wash trading, this would require traders to assume market risk in closing out such positions.

4. Would maintenance of the general rule but replacement of the current list of exceptions with a provision permitting any customer, in writing, to voluntarily opt out of the rule's protections generally reduce an FCM's costs or raise those costs and what effect would this provision have on the accuracy of the information generated by the market?

5. Would deletion of the current rule increase any costs to an FCM?

a. Does the prophylactic nature of the rule serve to reduce the costs of FCMs by establishing an industry-wide standard for the treatment of offsetting position?

b. Would greater discretion in the treatment of customer accounts increase the probability of related types of individual malfeasance, and hence, result in increased supervisory costs?

c. Would the greater availability of "hold open" accounts result in increased costs to the industry by complicating further the bulk transfer of accounts by a firm in financial distress?

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small entities. The Commission has previously determined that "FCMs" are not "small entities" for purposes of the RFA. 47 FR 18618 (April 30, 1982). These proposed rules modify the requirements under which FCMs must close out offsetting positions and issue a consolidated purchase-and-sale statement. The proposed amendment does not impose any additional burdens, but rather, alleviates already existing obligations. Accordingly, if promulgated, these rules would have no significant impact on a substantial number of small entities. For the above reasons, and pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invites comments from any firms or other persons which believe that the promulgation of these proposed rule amendments might have a significant impact upon their activities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, ("PRA") imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. There are no information collection requirements under the provisions of the PRA contained in Rule 1.46 and the Commission has determined that this proposed amendment has no burden.

List of Subjects in 17 CFR Part 1

Offsetting positions, Close-out requirements, Commodity trading advisors, Commodity futures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4g, 5 and 8a of the Act, 7 U.S.C. 6g, 7 and 12a (1988), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 9, 12, 12a, 12c, 13a–1, 13a–2, 16, 19, 21, 23 and 24; 5 U.S.C. 552 and 552b, unless otherwise noted.

2. Section 1.46 is proposed to be amended by adding new paragraph (d)(9), by revising paragraph (e)(1) and by removing and reserving paragraph (e)(2), to read as follows:

§ 1.46 Application and closing out of offsetting long and short positions.

* * * * *

(d) *Exceptions.* The provision of this section shall not apply to:

(1) * * *

(9) Purchases or sales held in separate accounts for the same customer by a commodity trading advisor trading separate trading systems which have

been marketed separately, *provided that:*

(i) The purchases and sales for such accounts are executed in open and competitive means on or subject to the rules of a contract market; and

(ii) No position held for or on behalf of separate accounts traded in accordance with this paragraph may be closed out by transferring such an open position from one of the separate accounts to another of such accounts.

(e) * * *

(1) The futures commission merchant must first furnish the customer or option customer with a written statement disclosing that, if held open, offsetting long and short positions in the separate accounts may result in the charging of additional fees and commissions and the payment of additional margin, although offsetting positions will result in no additional market gain or loss. Such written statement shall be attached to the risk disclosure statement required to be provided to a customer or option customer under § 1.55 of this part.

(2) [reserved].

Issued in Washington, DC, this 30th day of July, 1992, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92-18475 Filed 8-4-92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AF84

Direct Service Connection (Post-traumatic Stress Disorder)

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations to establish the extent of evidence required to establish service connection for post-traumatic stress disorder (PTSD). This regulation is necessary because, although VA has issued procedural guidelines on this subject, it is a substantive issue which should be addressed by regulation. The intended effect of this amendment is to establish a regulatory basis for current VA policy.

DATES: Comments must be received on or before September 4, 1992. Comments will be available for public inspection until September 14, 1992. The amendment is proposed to be effective the date of publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this amendment to Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), until September 14, 1992.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: In a precedent opinion dated March 17, 1992 (O.G.C. Prec. 7-92), VA's General Counsel held that certain provisions of the Adjudication Procedural Manual, M21-1, Part I, regarding the development of evidence in claims involving PTSD constitute substantive rules which were not promulgated in accordance with the rulemaking procedures prescribed by 5 U.S.C. 552(a)(1), 553 and 38 CFR 1.12. The purpose of this rulemaking is to correct that deficiency.

PTSD is an anxiety disorder resulting from a traumatic event outside the range of usual human experience which is characterized by recurrent episodes of reexperiencing the traumatic event, numbing of emotional responsiveness, and increased restlessness. In order to establish service connection for PTSD, VA must have medical evidence supporting a clear diagnosis of the condition, credible evidence that the claimed inservice stressor actually occurred, and medical evidence establishing a link between the current symptomatology and the claimed inservice stressor.

Under the provisions of 38 U.S.C. 501(a), the Secretary of Veterans Affairs has authority to prescribe regulations with respect to the nature and extent of proof and evidence required in order to establish entitlement to benefits. The Secretary has determined that for cases of PTSD certain types of evidence are sufficient to substantiate the occurrence of the claimed inservice stressor under specific circumstances were events can never be fully documented. Combat, for example, is inherently life-threatening, and the brutal and horrific events associated with active armed combat are indisputably the types of stressful events that could produce PTSD. The chaotic circumstances of combat, however, preclude the maintenance of detailed records. Consequently, the Secretary has determined that when service department records indicate that the veteran engaged in combat or was awarded a combat citation and the claimed stressor is related to the combat experience, further development to document the occurrence of the claimed stressor in unnecessary.

Similarly, when a veteran is considered a former prisoner-of-war under the provisions of 38 CFR 3.1(y), the Secretary has determined that no additional evidence is necessary to verify the occurrence of an inservice stressor. Typically, former prisoners-of-war were forcibly detained or interned under circumstances that included physical or psychological hardships or abuse, malnutrition, and unsanitary conditions. The prolonged and chronic stress of exposure to such conditions plus the uncertainty of not knowing how long one must endure them are types of overwhelming stress that could certainly produce PTSD.

When VA has the types of evidence discussed above, additional development would only serve to delay the authorization of benefits to which the claimants are entitled. We propose to implement this decision by amending 38 CFR 3.304.

This amendment is proposed to be effective the date of publication of the final rule. The Secretary finds good cause for doing so since this amendment will not work to the detriment of any claimant. This decision is fully consistent with VA's longstanding policy to administer the law under a broad interpretation for the benefit of veterans and their dependents (38 CFR 3.102).

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.)

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: June 19, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is proposed to be amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 105 Stat. 386; 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.304, add new paragraph (f) and its authority citation to read as follows:

§ 3.304 Direct service connection; wartime and peacetime.

* * * * *

(f) Post-traumatic stress disorder. Service connection for post-traumatic stress disorder requires medical evidenced establishing a clear diagnosis of the condition, credible supporting evidence that the claimed inservice stressor actually occurred, and a link, established by medical evidence, between current symptomatology and the claimed inservice stressor. If the claimed stressor is related to combat, service department evidence that the veteran engaged in combat or that the veteran was awarded the Purple Heart, Combat Infantry Badge, or similar citation will be accepted, in the absence of evidence to the contrary, as conclusive evidence of the claimed inservice stressor. Additionally, prisoner-of-war experience which satisfies the requirements of § 3.1(y) of this part will be accepted as conclusive evidence of an inservice stressor.

(Authority: 38 U.S.C. 1154(b))

[FR Doc. 92-18503 Filed 8-4-92; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300257; FRL-4075-9]

RIN 2070-AC18

Certain Polymers and Copolymers; Tolerance Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of 1,6-hexanediol dimethacrylate polymer, ethylene glycol dimethyacrylate-lauryl methacrylate copolymer, ethylene glycol dimethacrylate polymer, lauryl methacrylate-1,6-hexanediol dimethyacrylate copolymer, stearyl methacrylate-1,6-hexanediol dimethacrylate copolymer, and 1,12-dodecanediol dimethacrylate polymer when used as inert ingredients (release rate regulators) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest. This proposed regulation was requested by Agrisense.

DATES: Comments, identified by the document control number [OPP-300257], must be received on or before September 4, 1992.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 711I, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-7252.

SUPPLEMENTARY INFORMATION: At the request of Agrisense, 4230 West Swift Ave., Suite 106, Fresno, CA 93722, the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), proposes to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for residues of 1,6-hexanediol dimethacrylate polymer, ethylene glycol dimethyacrylate-lauryl methacrylate copolymer, ethylene glycol dimethacrylate polymer, lauryl methacrylate-1,6-hexanediol dimethyacrylate copolymer, stearyl methacrylate-1,6-hexanediol dimethacrylate copolymer, and 1,12-dodecanediol dimethacrylate polymer when used as inert ingredients (release rate regulators) in pesticide formulations applied to growing crops and to raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk. The Agency has decided that the data normally required to support the proposed tolerance exemption for the above-mentioned polymers and copolymers will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances which are defined as "polymers" the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude from this low risk group, polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. The above-mentioned polymers and copolymers conform to the definition of a polymer in 40 CFR 723.250(b)(11) and meet the following criteria which are used to identify low-risk polymers:

1. The minimum average molecular weight of the above-mentioned polymers and or copolymers is greater than 100,000, with some approaching 1,000,000. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. The above-mentioned polymers and copolymers are not cationic, nor are they reasonably anticipated to become such.

3. The above-mentioned polymers and copolymers contain less than 32.0 percent by weight of the atomic element carbon.

4. The above-mentioned polymers and copolymers contain as an integral part of their composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. The above-mentioned polymers and copolymers do not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. The above-mentioned polymers and copolymers are not biopolymers, a synthetic equivalent of a biopolymer, or derivatives or modifications of a biopolymer that is substantially intact.

7. The above-mentioned polymers and copolymers are not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. The above-mentioned polymers and copolymers do not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. The above-mentioned polymers and copolymers are not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, these ingredients are useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemptions from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300257]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, agricultural commodities, pesticides and pests, recording and recordkeeping requirements.

Dated: July 27, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1001(c), by adding and alphabetically inserting the following new entries, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
*	*	*
1,12-Dodecanediol dimethyacrylate polymer	Minimum molecular weight 100,000	Release rate regulator in pheromone formulation
*	*	*
Ethylene glycol dimethacrylate-lauryl methacrylate copolymer.	Minimum molecular weight 100,000	Release rate regulator in pheromone formulation
Ethylene glycol dimethacrylate polymer	Minimum molecular weight 100,000	Release rate regulator in pheromone formulation
*	*	*
1,6-Hexanediol dimethacrylate polymer	Minimum molecular weight 100,000	Release rate regulator in pheromone formulation
*	*	*
Lauryl methacrylate-1,6-hexanediol dimethyacrylate copolymer.	Minimum molecular weight 100,000	Release rate regulator in pheromone formulation
*	*	*
Stearyl methacrylate-1,6-hexanediol dimethacrylate copolymer.	Minimum molecular weight 100,000	Release rate regulator in pheromone formulation
*	*	*

* * * * *

[FR Doc. 92-18576 Filed 8-4-92; 8:45 am]
BILLING CODE 6560-50-F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 76]

RIN 2127-AE44

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to give the manufacturers of certain trucks and multipurpose passenger vehicles manufactured to be driven by wheelchair occupants the option of not complying with existing requirements in Standard No. 208, Occupant Crash Protection, for the dynamic testing of the manual safety belts they currently install in front outboard seating positions. It would also give them the option of installing non-dynamically tested manual safety belts instead of complying with requirements that have been issued, but are not yet effective, for the installation and dynamic testing of automatic restraints in those positions.

Because of the special modifications which must be made to these vehicles, final stage manufacturers and alterers who produce these vehicles have been unable to certify compliance with these requirements by passing through the certification of the chassis manufacturer. In addition, the final stage manufacturers and alterers are small businesses who individually cannot afford to independently certify compliance with the dynamic test requirements for these vehicles.

This amendment would allow persons with disabilities to continue to purchase vehicles for their own operation.

DATES: Comments must be received by October 5, 1992. If adopted, the proposed amendments would become effective 30 days following the publication of the final rule.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket Room hours are 9:30 a.m.-4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Cohen, NRM-12, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-2264.

SUPPLEMENTARY INFORMATION:

On November 23, 1987, NHTSA published a final rule amending Standard No. 208, Occupant Crash Protection, to require the dynamic crash testing of the lap/shoulder safety belts installed in the front outboard seating positions of trucks and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less (referred to below as "light trucks") (52 FR 44898). This amendment became effective on September 1, 1991.

On November 4, 1991, the Recreation Vehicle Industry Association (RVIA) petitioned the agency "to amend Standard No. 208 to eliminate requirements that inadvertently discriminate against individuals with disabilities including individuals who use wheelchairs." RVIA is a national trade association representing over 500 manufacturers of recreation vehicles and their related suppliers. RVIA's membership also includes more than 114 van converters who manufacture approximately 80 percent of the van conversions produced in the United States. The RVIA petition alleged that its "member manufacturers and van converters are small business entities that do not have the necessary technical or other resources to 'crash test' vehicles. As a result of (the new dynamic testing) requirement, they are no longer able to provide employers and others with 'customized' vans, van conversions and light trucks that are specially designed or equipped to be driven by or used to transport persons with disabilities." On January 9, 1992, the agency granted this petition.

In the preamble to the 1987 final rule, the agency discussed how final stage manufacturers and alterers who could not afford to do the necessary testing or engineering analysis could certify compliance with the new dynamic testing requirements. The agency stated that "(t)he manufacturers of the truck or van chassis used by final stage manufacturers are required to provide information on what center of gravity, weight, and other limitations must be followed for the vehicle to remain in compliance with all the agency's safety standards. Final stage manufacturers and converters can stay within the limitations prescribed by the original chassis manufacturer and thus the final vehicle will continue to comply." (52 FR 44898, 44907) Therefore, RVIA's assertions appear to have already been addressed in the preamble to the final rule.

However, while the agency was reviewing this petition, NHTSA also received a letter from the Braun Corporation, a mobility products manufacturer. This letter explained that, when manufacturing a van to be driven by a person with a disability, the roof over the front seating positions must be raised to provide sufficient headroom for a person in a wheelchair. The letter explained that the information provided by the manufacturer of the van stated that the roof area forward of the B pillar (the post between the side cargo door and the front passenger door) cannot be cut if the final stage manufacturer wishes to pass through the incomplete vehicle manufacturer's certification of compliance with Standard No. 208. Because many of the final stage manufacturers and alterers are small businesses, they cannot individually afford to independently certify compliance with the new dynamic testing requirements of Standard No. 208. In addition, because vehicles manufactured for persons with disabilities are often unique, it would be difficult for the manufacturer to utilize other analytical techniques to evaluate the compliance of different vehicles. Therefore, RVIA's concern that the new dynamic testing requirements of Standard No. 208 makes manufacture of vehicles for persons with disabilities cost prohibitive appears valid.

The RVIA petition also claimed that, by making the manufacture of vehicles "specially designed or equipped to be driven by or used to transport persons with disabilities" cost prohibitive, the new dynamic testing requirements violate the Americans with Disabilities Act [ADA] of 1990 (Pub. L. 101-336, 42 U.S.C. 12101, *et seq*). The ADA requires newly purchased or leased or remanufactured vehicles used in bus systems operated by public entities to be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. The ADA also requires that designated public transportation, provided by private entities, be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

The agency disagrees that the new dynamic testing requirements of Standard No. 208 violate the ADA. The issues raised by the RVIA petition concern modification of vans for operation by persons in wheelchairs.

The agency believes that these vehicles are primarily, if not wholly personal or private vehicles, and not vehicles used in public transportation. Even if some of these vans were intended for public transportation purposes, the only seats that appear to present a problem are seats forward of the B pillar, especially the driver's seat. Accessible vehicles used in public transportation are designed to carry individuals in wheelchairs as passengers, at seating positions which are located rearward of the B pillar.

While not required by the ADA to take action in response to the petition, the agency is concerned that the dynamic testing requirements for manual safety belts in light trucks may severely limit the personal mobility of drivers with disabilities. Although the petition did not address the automatic restraint requirements not yet in effect for light trucks, the agency has similar concerns about those requirements. While the agency believes that all individuals are entitled to an equivalent level of occupant crash protection, the agency believes that that goal must be balanced with the goal of providing mobility for all Americans. The agency encourages the vehicle manufacturers to work with those who modify and alter light trucks for persons with disabilities to develop appropriate mobility arrangements, adaptive devices, and other hardware that will work harmoniously with the occupant crash protection requirements of Standard No. 208.

Since this is not yet possible, the agency is proposing to add light trucks manufactured to be operated by wheelchair occupants to the list of vehicles which may be equipped with non-dynamically tested manual belts instead of being equipped with dynamically tested manual belts or automatic restraints. The agency emphasizes that the manual safety belts in these light trucks would offer significant occupant crash protection. These vehicles would be required to have, at a minimum, a Type 2 seat belt assembly installed at each outboard seating position and a Type 1 seat belt assembly installed at all other seating positions.

Since the agency does not have any information that seating positions rearward of the B pillar cannot comply with the current requirements, the agency does not believe there is a need to apply the amendments to vehicles with conventional driver's seating positions, but designed to carry passengers in wheelchairs in the rear seating area. To ensure that the amendments are limited to vehicles manufactured to be driven by a wheelchair occupant, the agency would refer to those vehicles by the term "vehicles manufactured for operation by persons with disabilities" and define that term as follows:

Vehicles that incorporate a level change device (e.g., a wheelchair lift or a ramp) for onloading or offloading an occupant in a wheelchair, at least one adaptive control to enable persons who have limited use of their arms or legs to operate a vehicle, and an interior element of design intended to provide the vertical clearance necessary to permit a person in a wheelchair to move between the level change device and the driver's position or to occupy that position.

This definition covers all vehicles with these attributes, instead of only those vehicles manufactured in two or more stages and altered vehicles. The agency is not aware of any single stage vehicles that are being manufactured with the attributes necessary to qualify for this exclusion. If a commenter believes that vehicles manufactured in a single stage should not qualify for this exclusion, the agency requests comments on how to objectively make that distinction based on attributes of the vehicles instead of the nature of the manufacturing process. The agency also requests comment on all other aspects of this definition.

As noted above, the agency is not proposing to extend the proposed exclusion to vehicles in which only the right front seating position is designed for a person in a wheelchair because such a passenger would be able to use rear seating positions. It is the agency's belief that this exclusion to the dynamic testing requirements should be no broader than necessary to accommodate the mobility needs of persons with disabilities. The agency requests comments on any need to extend the exclusion to vehicles in which only the right front seating position is modified.

The agency specifically seeks public comments on whether prospective purchasers should be provided with information that the vehicles subject to this rulemaking are not required to be dynamically tested. If commenters believe such notification is necessary, they are requested to provide reasons thereof and what form the notification should take.

Because this proposal would remove a restriction on the manufacture of light trucks for operation by persons with disabilities, the agency is proposing that this amendment would become effective 30 days after publication of a final rule. In addition, in response to inquiries from a member of Congress and the public, NHTSA has previously stated that it will not conduct any Standard No. 208 compliance tests of vehicles that would be covered by the proposed amendment that are manufactured while this rulemaking is pending.

This proposed rule would not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (Safety Act; 15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 105 of the Safety Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The agency has analyzed the economic and other effects of this proposal and determined that they are neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. The agency has determined that the economic effects of the proposed amendment are so minimal that a full regulatory evaluation is not required.

The agency estimates that there would be 1,000 vehicles produced annually that would qualify for the proposed exclusion. Assuming that each of these vehicles is unique, the manufacturer would have to separately test each model, requiring manufacture of two vehicles, one to be tested and one to be sold. Testing costs for a Standard No. 208 test are $13,500. The agency estimates that the total cost of the second vehicle would be $25,000. Based on these figures, the agency estimates that the proposed amendment will avoid $38.5 million in costs annually.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated

the effects of this proposed action on small entities. Based upon this evaluation, I certify that the proposed amendments would not have a significant economic effect on a substantial number of small entities. Manufacturers of vehicles affected by this proposal are primarily small businesses. However, as stated above, the agency does not expect a significant cost impact as a result of this proposal. Since there will not be a significant cost impact, the price of new vehicles will not be affected sufficiently to affect the purchase of new vehicles by small organizations and governmental jurisdictions. In addition, this amendment would permit small businesses to produce vehicles that they would not otherwise be able to produce.

Executive Order 12612 (Federalism)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

The agency has also analyzed this rule for the purpose of the National Environmental Policy Act, and determined that it would not have any significant impact on the quality of the human environment.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, it is proposed that 49 CFR part 571 be amended as follows:

1. The authority citation for part 571 of title 49 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407, delegation of authority at 49 CFR 1.50.

§ 571.208 [Amended]

2. Section 571.208 would be amended by revising the heading and adding a new first sentence in S4.2, and by revising the heading and the first sentence in paragraphs S4.2.2, S4.2.5.1.1, S4.2.5.2.1, S4.2.5.3.1, and S4.2.6 and the heading, paragraph (a) and the 1st sentence of paragraph (b) to S4.2.5.4 to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S4.2. *Trucks and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less.* As used in this section, *vehicles manufactured for operation by persons with disabilities* means vehicles that incorporate a level change device (e.g., a wheelchair lift or a ramp) for onloading or offloading an occupant in a wheelchair, at least one adaptive control to enable persons who have limited use of their arms or legs to operate a vehicle, and an interior element of design intended to provide the vertical clearance necessary to permit a person in a wheelchair to move between the lift or ramp and the driver's position or to occupy that position.

* * * * *

S4.2.2 *Trucks and multipurpose passenger vehicles with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, manufactured on or after September 1, 1991 and before September 1, 1997.* Except as provided in S4.2.4, each truck and multipurpose passenger vehicle, with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, manufactured on or after September 1, 1991 and before September 1, 1997, shall meet the requirements of S4.1.2.1, or at the option of the manufacturer, S4.1.2.2 or S4.1.2.3 (as specified for passenger cars), except that convertibles, open-body type vehicles, walk-in van-type trucks, motor homes, vehicles designed to be exclusively sold to the U.S. Postal Service, vehicles carrying chassis-mount campers, and vehicles manufactured for operation by persons with disabilities may instead meet the requirements of S4.2.1.1 or S4.2.1.2. * * *

* * * * *

S4.2.5 *Trucks, buses, and multipurpose passenger vehicles with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less manufactured on or after September 1, 1994, and before September 1, 1997.*

S4.2.5.1 *Trucks, buses, and multipurpose passenger vehicles with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less manufactured on or after September 1, 1994, and before September 1, 1995.*

S4.2.5.1.1 Subject to S4.2.5.1.2 and S4.2.5.5 and except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less that is manufactured on or after September 1, 1994 and before September 1, 1995, shall comply with the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3 (as specified for passenger cars).

* * *

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S4.2.5.2 *Trucks, buses, and multipurpose passenger vehicles with a GVWR of 8,500 pounds or less and an*

unloaded vehicle weight of 5,500 pounds or less manufactured on or after September 1, 1995, and before September 1, 1996.

S4.2.5.2.1 Subject to S4.2.5.2.2 and S4.2.5.5 and except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less that is manufactured on or after September 1, 1995 and before September 1, 1996, shall comply with the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3 (as specified for passenger cars). * * *

* * * * *

S4.2.5.3 *Trucks, buses, and multipurpose passenger vehicles with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less manufactured on or after September 1, 1996, and before September 1, 1997.*

S4.2.5.3.1 Subject to S4.2.5.3.2 and S4.2.5.5 and except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less that is manufactured on or after September 1, 1996 and before September 1, 1997, shall comply with the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3 (as specified for passenger cars). * * *

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S4.2.5.4 *Alternative phase-in schedule.* * * *

(a) Except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less that is manufactured on or after September 1, 1994 and before September 1, 1995, shall comply with the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3 (as specified for passenger cars).

(b) Except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle, other than walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities, with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less that is manufactured on or after September 1, 1995 shall comply with the requirements of S4.1.2.1 (as specified for passenger cars) of this standard. * * *

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S4.2.5 *Trucks, buses, and multipurpose passenger vehicles with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less manufactured on or after September 1, 1997.* Except as provided in S4.2.4, each truck, bus, and multipurpose passenger vehicle with a GVWR of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less manufactured on or after September 1, 1997 shall comply with the requirements of S4.1.2.1 (as specified for passenger cars) of this standard, except that walk-in van-type trucks, vehicles designed to be exclusively sold to the U.S. Postal Service, and vehicles manufactured for operation by persons with disabilities may instead meet the requirements of S4.2.1.1 or S4.2.1.2. * * *

Issued on July 29, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–18328 Filed 8–4–92; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

49 CAR Part 172

[Docket No. HM–206; Notice No. 92—6]

RIN 2137–AB75

Improvements to Hazardous Materials Identification Systems

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); extension of comment period.

SUMMARY: On June 9, 1992, RSPA published an advance notice of proposed rulemaking (ANPRM) in the Federal Register inviting public comment in regard to methods for improving the current placarding system, establishing a centralized reporting system and computerized data center and requiring carriers to establish continually monitored emergency response telephone systems. RSPA has received several requests from petitioners seeking an extension of the comment period in order to have more time to evaluate questions contained in the ANPRM. RSPA concurs, in part, with these requests and is extending the comment period 60 days from August 10, 1992 until October 9, 1992.

DATES: The closing date for filing comments is extended from August 10, 1992, to October 9, 1992.

ADDRESSES: Address comments to Dockets Unit (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 a.m. to 5 p.m. Monday through Friday, except public holidays.

FOR FURTHER INFORMATION CONTACT: John Potter, Office of Hazardous Materials Standards, RSPA, U.S. Department of Transportation, 400 Seventh St. SW., Washington, DC 20590. (202) 366–4488.

SUPPLEMENTARY INFORMATION: On June 9, 1992, RSPA published an advance notice of proposed rulemaking (ANPRM) in the Federal Register inviting public comment in regard to methods for improving the current placarding system, establishing a centralized reporting system and computerized data center, and requiring carriers to establish continually monitored emergency response telephone systems (Docket HM–206, Notice 92–6, 57 FR 24532). RSPA has received petitions from the Hazardous Materials Advisory Council (HMAC) and the American Trucking Associations (ATA) and the American Petroleum Institute (API). HMAC requested a 120-day extension. ATA requested an extension either to November 10, 1992, or of 30 days following the availability of a National Academy of Science (NAS) report regarding the feasibility and necessity of implementing a centralized reporting and data system (scheduled for completion and submission to Congress and the Secretary of Transportation in November 1992). API also requested an extension until 30 days following availability of the NAS study. The petitioners said an extension of the comment period would allow sufficient time to address "the extensiveness and complexity of the 63 questions." In addition, HMAC asserted that since the NAS study regarding computerized tracking systems is still in progress, "a delay in the comments would provide the possibility of an open forum for discussion of the points raised in the

ANPRM and of points raised in the NAS final report."

RSPA agrees that additional time should be provided to evaluate and respond to the questions posed in the ANPRM. However, RSPA believes that completion of the NAS study need not precede submission of comments to the ANPRM or their evaluation by RSPA. Extending the comment period to some date following completion of the NAS report would unduly delay consideration of the issues raised in the ANPRM. Therefore, RSPA is extending the comment period for 60 days, from August 10, 1992 until October 9, 1992, rather than for the longer periods requested by petitioners.

Issued in Washington, DC, on July 31, 1992 under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 92-18506 Filed 8-4-92; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 57, No. 151
Wednesday, August 5, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Agency Information Collection Activities

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal Domestic Volunteer Agency.

Under the Paperwork Reduction Act (44 U.S.C., chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [requests for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

ADDRESSES: Janet A. Smith, Clearance Officer, ACTION, 1100 Vermont Avenue, NW., Washington, DC 20525, (202) 606–5245.

Send comments to both: Steve Semenuk, Desk Officer for ACTION, Office of Management and Budget, 3002 New Executive Ofc. Bldg., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Patricia A. E. Rodgers, 202/606–4845.

SUPPLEMENTARY INFORMATION:

Office of Action Issuing Proposal: Office of Domestic and Anti-Poverty Operations/Volunteers In Service to America (VISTA).
Title of Forms: Request for VISTA Information Postcard.
Need and Use: For approximately the past seven years, ACTION has provided these postcards for its recruitment and information dissemination activities.
Type of Request: Revision of a currently approved postcard.
Respondent's Obligation to Reply: Voluntary.
Frequency of Collection: On Occasion.
Estimated Number of Responses: 6,000.
Average Burden Hours Per Response: 2 Minutes.
Estimated Annual Reporting or Disclosure Burden: 200 Hours.

Regulatory Authority: 42 U.S.C. 4951, Public Law 93–113, Title I.

Dated: July 30, 1992.

Mary Jane Maddox,

Acting Director, ACTION.

[FR Doc. 92–18523 Filed 8–4–92; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

July 31, 1992.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

• Forest Service
Collection and Analysis of Timber Purchases' Cost and Sales Data
Annually
Businesses or other for-profit; 60 responses; 100 hours
John A. Combes, (202) 205–0862

Extension

• Food and Nutrition Service
Food Stamp Mail Issuance Report
Form FNS–259
Quarterly
State or local governments; 10,060 responses; 3,139 hours
David Walters, (703) 305–2385

• Food and Nutrition Service
Annual Report for the Nutrition Education and Training Program (FNS–42)
Form FNS–42
Annually
State or local governments; 56 responses; 1008 hours
Martha A. Poolton, (703) 305–2554

• Animal and Plant Health Inspection Service
Endangered Species Regulations and Forfeiture Procedures
PPQ Forms 621, 623, 625, and 626
Recordkeeping; On occasion
Business or other for-profit; Small businesses or organizations; 16115 responses; 3186 hours;
Don Thompson, (301) 436–8645

• Forest Service
Recreation Fee Permit Envelope
FS–2300–26, –26a
On occasion
Individuals or households; 2,000,000 responses; 60,000 hours
Bob Cron, (202) 205–1408

• Animal and Plant Health Inspection Service
Report of Violation (PPQ Form 518)
PPQ Form 518
On occasion
Individuals or households; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 600 responses; 102 hours
Andrea M. Elston, (301) 436–4478

New Collection

• Food and Nutrition Service
Participation in the Child Support Enforcement Program Among Non-AFDC Food Stamp Households
Single Time
Individuals or households; 2,949 responses; 450 hours
Diana Perez, (703) 305–2133

Reinstatement

• Food and Nutrition Service
Employment and Training (E&T) Program Report
FNS 583
Quarterly
Individuals or households; State or local governments; 3,521,065 responses; 258,416 hours
Ellen Henigan, (703) 305–2762.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 92–18552 Filed 8–4–92; 8:45 am]

BILLING CODE 3410–01–M

Commodity Credit Corporation

Market Promotion Program, Fiscal Year 1993

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Market Promotion Program for Fiscal Year 1993.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, room 4932–S, Commodity and Marketing Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000, Telephone: (202) 720–5521.

SUPPLEMENTARY INFORMATION: Section 203 of the Agricultural Trade Act of 1978, as amended by section 1531 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624), directs the Commodity Credit Corporation (CCC) to "carry out a program to encourage the development, maintenance and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations that implement a foreign market development program". It further requires the Secretary to provide assistance under the Market Promotion Program (MPP) on a priority basis to those commodities which have been affected by an "unfair trade practice". Assistance under this program may be provided in the form of funds of, or commodities owned by, the CCC, as determined appropriate by the Secretary.

The MPP will be implemented in accordance with the regulations set forth in 7 CFR part 1485, subpart B, (56 F.R. 40745), 8/16/91. The Administrator of the Foreign Agricultural Service, who is Vice President of CCC, is authorized to enter into agreements with nonprofit commodity specific trade associations, regional associations of state departments of agriculture, state groups, and U.S. private firms and cooperatives to provide cost-share assistance to carry-out approved export promotion activities. Eligibility for promotional support will be limited to those agricultural commodities or products which are at least 50 percent U.S. origin by weight, excluding added water. Promotional activities will be undertaken which offer the greatest potential in terms of creating, maintaining or expanding export markets for U.S. agricultural commodities. Assistance may be provided for brand promotion activities when such activities are determined by the Administrator, FAS, to be an effective means of carrying out the purposes of the MPP.

To be considered by CCC, applicants must fully comply with the procedures specified in 7 CFR 1485.12(b)(2), 7 CFR 1485.13(c), and 7 CFR 1485.14(e)(2). Criteria for the allocation of CCC resources in the MPP are set forth at 7 CFR 1485.15.

The applicant must provide the information required by the regulations and may include any other factors the applicant deems appropriate. All applications must be received by 5 p.m. eastern time, October 7, 1992 at the following address: Marketing Operations Staff, room 4932–S, Commodity and Marketing Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1000.

For more detailed information regarding application procedures, revised strategic plan formats, and other aspects of the Market Promotion Program, contact the Marketing Operations Staff, Foreign Agricultural Service, at the address above or telephone (202) 720–5521. Comments regarding the conduct of the MPP Program may be directed to the same address.

Signed at Washington, DC July 31, 1992.

Stephen L. Censky,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 92–18554 Filed 8–4–92; 8:45 am]

BILLING CODE 3410–10–M

Food and Nutrition Service

National Advisory Council on Maternal, Infant and Fetal Nutrition; Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following Council meeting:

Date and Time: September 16–18, 1992, 9 a.m.

Place: Ramada Hotel Old Town, The Fairfax Room, 901 N. Fairfax Street, Alexandria, Virginia 22314.

Purpose of Meeting: The Council will continue its study of the Special Supplemental Food Program for Women, Infants and Children (WIC) and the Commodity Supplemental Food Program (CSFP).

Agenda: The agenda items will include a wide range of matters concerning these two programs.

Meetings of the Council are open to the public. Members of the public may participate, as time permits. Members of the pubic may file written statements with the Council before or after the meeting.

Persons wishing to file written statements or to obtain additional information about this meeting should contact Tama Eliff, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305–2730.

Dated: July 30, 1992.

Betty Jo Nelsen,

Administrator.

[FR Doc. 92–18519 Filed 8–4–92; 8:45 am]

BILLING CODE 3410–30–M

Soil Conservation Service

Boone Fork Creek Watershed, KY

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Boone Fork Creek Watershed, Letcher County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Billy W. Milliken, State Conservationist, Soil Conservation Service, Suite 110, 771 Corporate Drive, Lexington, Kentucky 40503–5479, telephone: 606–224–7360.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy W. Milliken, state conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection, flood control, and rural water supply. The planned action consists of installing an 8,500 ft. lined flood control channel, a rural water supply structure, and a forestland land treatment program that includes an education-information component.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties, a limited number of copies of the FONSI are available to fill single copy requests. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy W. Milliken, state conservationist, Suite 110, 771 Corporate Drive, Lexington, Kentucky 40503–5479.

No administrative action on implementation of the proposal will be taken until 30 days after September 4, 1992.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials)

Frank Scudder,

Deputy State Conservationist.

[FR Doc. 92–18470 Filed 8–4–92; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee to the Commission will be held from 6 p.m. until 9 p.m. on Thursday, August 27, 1992, at the Hyatt on Printers Row, 500 So. Dearborn Street, Chicago, Illinois. The purpose of this meeting is to receive a briefing on unequal police protection and to discuss civil rights issues.

Persons desiring additional information should contact Faye M. Lyon, Committee Chairperson at (815) 965–9595 or Constance M. Davis, Regional Director of the Midwestern Regional Office, U.S. Commission on Civil Rights, at (312) 353–8311. Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 29, 1992.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92–18504 Filed 8–4–92; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Illinois Advisory Committee to the Commission will be held from 8:30 a.m. until 6 p.m. on Friday, August 28, 1992, at the Ralph Metcalf Building, 77 West Jackson Street, room 331, Chicago, Illinois. The purpose of this meeting is to examine unequal police protection of the African American community in Chicago.

Persons desiring additional information should contact Faye M. Lyon, Committee Chairperson at (815) 965–9595 or Constance M. Davis, Regional Director of the Midwestern Regional Office, U.S. Commission on Civil Rights, at (312) 353–8311. Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 29, 1992.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92–18505 Filed 8–4–92; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. OEE–3–92; OEE–4–92]

Reza Panjtan Amiri and Mohammad Danesh; Appellants; Decision and Order

On November 12, 1991, the Acting Assistant Secretary for Export Enforcement issued an Order temporarily denying the export priviliges of Appellants. The Order was published in the **Federal Register** on November 20, 1991 (56 FR 58553). After notice, an extension until May 29, 1992, was issued on May 8, 1992 (57 FR 21057). Following notice and objection, further extension of the Temporary Denial Order was made on May 29, 1992, and published in the **Federal Register** on June 8, 1992. (57 FR 24242).

The Appellant has now appealed this extension of the Temporary Denial Order. He argues that the Order fails to accord any probative value to facts which contradict the likelihood of an imminent violation and that a temporary denial order should not be based solely on past violations. In the Recommended Decision of the Administrative Law Judge (ALJ), the ALJ finds that there is sufficient showing on the record for continuing the Temporary Denial Order. Based on my review of the record, I agree with that finding.

The ALJ, however, goes on the state that based on his opinion in Dockets OEE–1–92 and OEE–2–92, July 22, 1992, there is no longer statutory authority for issuing Temporary Denial Orders because of the expiration of the Export Administration Act of 1979. I disagree with the ALJ's conclusion in this matter for the reasons I have given in rendering my decision in In the Matter of Iran Air, (Docket Number 0120–01). I hereby vacate that portion of the Recommended Decision in this case that suggests that there is no legal basis to issue or continue a temporary denial order.

Order

Based on my review of the complete record, Appellants' request to vacate the Temporary Denial Order is denied. This constitutes final agency action.

Dated: July 30, 1992.

Joan M. McEntee,

Acting Under Secretary for Export Administration.

Recommended Decision

[Docket Number OEE–3–92; OEE–4–92]

In the Matter of: Reza Panjtan Amiri [1] also known as Ray Amiri individually & doing business as Ray Amiri Computer Consultants and Mohammad Danesh also known as Don Danesh, Appellants.

Appearance for Appellants: John R. Liebman, Esq., Brown, Winfield & Canzoneri, Inc., 300 South Grand Avenue, suite 1500, Los Angeles, California 90071–3125.

Appearance for Agency: Thomas C. Barbour, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Room H–3839, Washington, DC 20230.

Background

On November 12, 1991, at the request of the Deputy Chief Counsel for Enforcement and Litigation, the Acting

[1] The Temporary Denial Order involved the above Appellant and Mohammad Danesh. Mr. Danesh has not appealed.

Assistant Secretary for Export Enforcement issued an Order temporarily denying the export privileges of Appellant and others. That Order was published in the **Federal Register** on November 20, 1991, at 56 FR 58553. After due notice a brief extension, until May 29, 1992, was issued on May 8, 1992 (57 FR 21057). Following notice and objections, further extension for 180 days was executed on May 29, 1992, and published in the **Federal Register** on June 8, 1992, at 57 FR 24242. An appeal and written submissions have been received on behalf of the parties and the matter is ready for disposition in this short-term appeal proceeding.

Facts

Counts Fourteen Through Seventeen

[18 U.S.C. 1001, 2(b)]

On or about the following dates, in Orange County and elsewhere, within the Central District of California, defendants Reza Amiri and Mohammad Danesh knowingly and willfully made, and caused to be made, false, fictitious and fraudulent statements and representations as to material facts within the jurisdiction of the United States Department of Commerce and the United States Customs Service, both agencies of the United States, in that defendants prepared and filed, and caused to be prepared and filed, with the United States Department of Commerce and the United States Customs Service, Shipper's Export Declarations ("SED") which falsely: (a) Declared that the commodities listed below were authorized for export to Iran as general license designation "GLV", and (b) understated the dollar value for the commodities; whereas in truth and fact, as defendants well knew, each of the exported commodities required an Individual Validated License for export from the United States to Iran and none was authorized for export as "GLV", and the value of each commodity was significantly greater than that which was declared:

Count	Commodity	SED date	Declared export designation and value	Actual value
Fourteen	1 Data I/0 29B30800 Universal Programming System	8/3/89	GLV 1565A, $4852.00	$10,900
Fifteen	1 Hewlett Packard 8112A Pulse Generator	12/29/89	GLV 1529A, $3937.00	6,049
Sixteen	1 Tektronix 446 Oscilloscope	3/27/90	GLV 1529 $3795.00	4,995
Seventeen	1 Hewlett Packard 54504A Digitizing Oscilloscope	8/1/90	GLV 1529 D. Control $4772.00	6,450

The above are the counts of a first superseding indictment to which Appellant entered a plea of guilty in the United States District Court for the Central District of California. Additional assertions of possible other violations are also made in the record but they do not appear to be substantiated.

Appellant's Points

Counsel for Mr. Amiri contends that the temporary denial order fails to accord any probative value to highly relevant facts which strongly contradict the likelihood of an imminent violation and that a temporary denial order should not be based solely on past violations.

Discussion

Counsel errs. A person engaged in commercial activity is obliged to know and conform to the rules of the regulated business in which he engages. This cannot be overstated, particularly for those involved in international export of materials and products. The guilty plea to the five counts as set forth above was sufficient to warrant prompt action in light of the activities involved. Appellant may not now renege on the implications of that plea. Continued participation in foreign trade (through Canada) and travel to Iran to conduct "business activities" certainly support an extension until the investigation could be completed and the charging letter issued. Appellant's relocation of his business and use of another entity that has been granted an exception do not support an extension.

I find that, on the record before me, there was a sufficient showing for continuing the temporary denial order.

So much for the facts.

Compliance with the law is another matter. In Dockets OEE–1–92 and OEE–2–92, July 22, 1992, the effect of the lapse of the Export Administration Act on September 30, 1990, is discussed. There is no longer statutory authority for issuing Temporary Denial Orders. The reservations expressed there apply here as well.[2] I find no legal authority for the issuance of Temporary Denial Orders.

For the reasons stated in OEE–1–92 and OEE–2–92 cited above, the temporary denial order should be withdrawn for it lacks a legal basis.

Dated: July 23, 1992.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 92–18463 Filed 8–4–92; 8:45 am]

BILLING CODE 3510–DT–M

Action Affecting Export Privileges; Kenneth K. Gimm; Order Denying Permission To Apply for or Use Export Licenses

In the matter of: Kenneth K. Gimm, 14 Fairway Drive, Princeton, New Jersey 08540.

On July 15, 1991, Kenneth K. Gimm (hereinafter referred to as Gimm) was convicted in the U.S. District Court for the District of New Jersey of one count of violating the Export Administration Act of 1979, as amended (EAA).[1] The conviction followed Gimm's plea of guilty to a one-count criminal information charging him with exporting certain articles from the United States while he was subject to an order issued by the United States Department of Commerce that denied all of his export privileges. Section 11(h) of the EAA provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the EAA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person had any interest at the time of his conviction may be revoked.

[2] That concern encompasses the search warrant alluded to on page 3 of the Statement in Support of Appeal. If the warrant was of the administrative variety, or was based on the lapsed Export Administration Act, then *Bivens* (as discussed in Dockets OEE–1–92 and OEE–2–92) may have applied here.

[1] The EAA expired on September 30, 1990. Executive Order 12730 (55 *Fed. Reg.* 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the EAA.

Pursuant to §§ 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the EAA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license previously issued to such a person. Having received notice of Gimm's conviction for violating the EAA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Gimm permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on July 15, 2001. I have also decided to revoke all export licenses issued pursuant to the EAA in which Gimm had an interest at the time of his conviction.

Accordingly, *it is hereby Ordered*

I. All outstanding individual validated licenses in which Gimm appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Gimm's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until July 15, 2001, Kenneth K. Gimm, 14 Fairway Drive, Princeton, New Jersey 08540, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Gimm by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until told.

VI. A copy of this Order shall be delivered to Gimm. This order shall be published in the Federal Register.

Dated: July 28, 1992.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 92-18501 Filed 8-4-92; 8:45 am]

BILLING CODE 3510-DT-M

Action Affecting Export Privileges; Susan Y. Gimm; Order Denying Permission To Apply for or Use Export Licenses

In the matter of: Susan Y. Gimm, 14 Fairway Drive, Princeton, New Jersey 08540.

On July 15, 1991, Susan Y. Gimm (hereinafter referred to as Gimm) was convicted in the U.S. District Court for the District of New Jersey of one-count of violating the Export Administration Act of 1979, as amended (EAA).[1] The conviction followed Gimm's pleas of guilty to a one-count criminal information charging her with aiding and abetting her husband, Kenneth K. Gimm, to export certain articles from the United States during a period of time while her husband, Kenneth K. Gimm, was subject to an order issued by the United States Department of Commerce that denied all of his export privileges. Section 11(h) of the EAA provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the EAA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 C.F.R. Parts 768–799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person had any interest at the time of his conviction may be revoked.

Pursuant to §§ 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the EAA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the EAA and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of Gimm's conviction for violating the EAA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Gimm permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of 10 years from the date of her conviction. The 10-year period ends on July 15, 2001. I have also decided to revoke all export licenses issued pursuant to the EAA in which Gimm had an interest at the time of her conviction.

Accordingly, *it is hereby Ordered*

[1] The EAA expired on September 30, 1990. Executive Order 12730 (55 *Fed. Reg.* 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the EAA.

I. All outstanding individual validated licenses in which Gimm appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Gimm's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until July 15, 2001, Susan Y. Gimm, 14 Fairway Drive, Princeton, New Jersey 08540, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or suing any validated or general export license, reexport authorization or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Gimm by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.19(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until July 15, 2001.

VI. A copy of this Order shall be delivered to Gimm. This Order shall be published in the **Federal Register**.

Dated: July 28, 1992.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 92-18502 Filed 8-4-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review of the Final Affirmative Injury Determination made by the U.S. International Trade Commission respecting Softwood Lumber from Canada, filed by the Government of Canada, the Governments of Alberta, British Columbia, Ontario and Quebec, the Canadian Forest Industries Council and affiliated companies and the Quebec Lumber Manufacturers' Association and its individual member companies with the United States Section of the Binational Secretariat on July 24, 1992.

SUMMARY: On July 24, 1992, the Government of Canada, the Governments of Alberta, British Columbia, Ontario and Quebec, the Canadian Forest Industries Council and affiliated companies and the Quebec Lumber Manufacturers' Association and its individual member companies filed a Request for Panel Review with the United States Section of the Binational Secretariat pursuant to Article 1904 of the United States-Canada Free-Trade Agreement. Panel review was requested of the Final Affirmative Injury Determination made by the U.S. International Trade Commission respecting Softwood Lumber from Canada, USITC File Number 701-TA-312 (Final) and published in the **Federal Register** on July 15, 1992 (57 FR 31389). The Binational Secretariat has assigned Case Number USA-92-1904-02 to this Request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 377-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the **Federal Register** on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the **Federal Register** on December 27, 1989 (54 FR 53165). The Rules were further amended and a consolidated version of the amended Rules was published in the **Federal Register** on June 15, 1992 (57 FR 26698). The panel review in this matter will be conducted in accordance with these Rules.

Rules 35(2) requires the Secretary of the responsible Section of the Binational Secretariat to publish a notice that a first Request for Panel Review has been received. A first Request for Panel Review was filed with the United States Section of the Binational Secretariat, pursuant to Article 1904 of the Agreement, on July 24, 1992, requesting panel review of the final determination described above.

Rule 35(1)(c) of the Rules provides that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in

accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is August 24, 1992);

(b) A Party, investigation authority or interested person that does not file a Complaint may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is September 8, 1992); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: July 29, 1992.

James R. Holbein,

United States Secretary, Binational Secretariat.

[FR Doc. 92-18514 Filed 8-4-92; 8:45 am]

BILLING CODE 3510-GT-M

National Institute of Standards and Technology

[Docket No. 920791-2191b]

National Fire Codes: Request for Proposals for Revision of Standards

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of request for proposals.

SUMMARY: The National Fire Protection Association (NFPA) proposes to revise some of its fire safety standards and requests proposals from the public to amend existing NFPA fire safety standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its standards. The publication of this notice of request for proposals by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESSES: Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770-3000.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes. Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Request for Proposals

Interested persons may submit amendments, supported by written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Proposals should be submitted on forms available from the NFPA Standards Administration Office.

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before or by 5 p.m. local time on the closing date indicated will be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

At a later date, each NFPA Technical Committee will issue a report which will include a copy of written proposals that have been received and an account of their disposition by the NFPA Committee as the Technical Committee Report. Each person who has submitted a written proposal will receive a copy of the report.

Dated: July 30, 1992.

Sam Kramer,

Acting Director.

NFPA No.	Title	Proposal closing date
NFPA 13A-1987	Inspection, Testing and Maintenance of Sprinkler Systems	9/18/92
NFPA 13E-1989	Fire Department Operations in Fire Department Operations in Properties Protected by Sprinkler and Standpipe Systems	7/16/93
NFPA 14A-1989	Testing, Inspection and Maintenance of Standpipe and Hose Systems	9/18/92
NFPA 30B-1990	Aerosol Products	9/15/92
NFPA 32-1990	Drycleaning Plants	7/16/93
NFPA 70E-1988	Electrical Safety Requirements for Employee Workplaces	1/15/93
NFPA 85C-1991	Furnace Explosions/Implosions in Multiple Burner Boiler Furnaces	1/15/93
NFPA 86-1990	Ovens and Furnaces	1/15/93
NFPA 91-1992	Exhaust Systems for Air Conveying of Materials	5/31/93
NFPA 122-1990	Flammable and Combustible Liquids Within Underground Metal and Nonmetal Mines (Other than Coal)	7/16/93
NFPA 123-1990	Underground Bituminous Coal Mines	7/16/93
NFPA 124-1988	Diesel Fuel and Diesel Equipment in Underground Mines	7/16/93
NFPA 150-1991	Firesafety in Racetrack Stables	7/16/93
NFPA 221*Proposed	Fire Walls	1/15/93
NFPA 231D-1989	Storage of Rubber Tires	1/15/93
NFPA 253-1990	Critical Radiant Flux of Floor Covering Systems Using Radiant Heat Energy Source	9/18/92
NFPA 298-1989	Foam Chemicals and Wildland Fire Control	1/15/93
NFPA 321-1991	Classification of Flammable and Combustible Liquids	9/15/92
NFPA 385-1990	Tank Vehicles for Flammable and Combustible Liquids	7/16/93
NFPA 386-1990	Portable Shipping Tanks for Flammable & Combustible Liquids	7/16/93
NFPA 408-1989	Aircraft Hand Fire Extinguishers	10/30/92
NFPA 410-1989	Aircraft Maintenance	1/15/93
NFPA 422M-1989	Aircraft Fire and Explosion Investigators	10/30/92
NFPA 423-1989	Aircraft Engine Test Facilities	1/15/93
NFPA 497M-1991	Classification of Gases, Vapors, and Dusts for Electrical Equipment in Hazardous (Classified) Locations	1/15/93
NFPA 921-1992	Fire and Explosion Investigations	7/16/93

NFPA No.	Title	Proposal closing date
NFPA 1201-1989	Developing Fire Protection Services for the Public	7/16/93
NFPA 1404-1989	Fire Department Self-Contained Breathing Apparatus Program	7/16/93
NFPA 1922*Proposed	Self-Contained Pumping Units	9/18/92
NFPA 1975-1990	Station/Work Uniforms for Fire Fighters	10/1/92
NFPA 1991-1990	Vapor-Protective Suits for Hazardous Chemical Emergencies	10/1/92
NFPA 1992-1990	Liquid Splash Protective Suits for Hazardous Chemical Emergencies	10/1/92
NFPA 1993-1990	Support Function Protective Garments for Hazardous Chemical Operations	10/1/92
NFPA 2002*Proposed	Selection of Fire Protection Systems	1/15/93

[FR Doc. 92-18467 Filed 8-4-92; 8:45 am]
BILLING CODE 3510-13-M

[Docket No. 920791-2191a]

National Fire Codes: Request for Comments on NFPA Technical Committee Reports

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of request for comments.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At its Fall Meeting in November or its Annual Meeting in May, the NFPA acts on recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports which will be presented at NFPA's 1993 Annual Meeting. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

DATES: Thirty-three reports are published in the 1993 Annual Meeting Technical Committee Reports and will be available on August 7, 1992. Comments received on or before October 16, 1992 will be considered by the respective NFPA Committees before final action is taken on the proposals.

ADDRESSES: The 1993 Annual Technical Committee Reports are available from NFPA, Publication Department, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Comments on the reports should be submitted to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770-3000.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal Agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Codes. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May each year. The NFPA invites public comment on its Technical Committee Reports.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards, Standards Council, NFPA 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Commenters may use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before October 16, 1992, will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the Technical Committee Documentation by April 2, 1993, prior to the Annual Meeting.

A copy of the Technical Committee Documentation will be sent automatically to each person who comments. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Annual Meeting, May 24-27, 1993 in Orlando, Florida by NFPA members.

Dated: July 30, 1992.

Sam Kramer,

Acting Director.

1993 Annual Meeting Technical Committee Reports

Document No.	Title	Action
NFPA 20	Installation of Centrifugal Fire Pumps	P
NFPA 30	Flammable and Combustible Liquids Code	P
NFPA 30A	Automotive and Marine Service Station Code	P
NFPA 43C	Gaseous Oxidizing Materials	W
NFPA 65	Processing and Finishing of Aluminum	P
NFPA 72	Protective Signaling Systems (Combines NFPA 71, 72, 72E, 72G, 72H and 74)	P
NFPA 77	Static Electricity	P
NFPA 92A	Smoke Control Systems	P
NFPA 105	Smoke Control Door Assemblies	P
NFPA 130	Fixed Guideway Transit Systems	P
NFPA 241	Safeguarding Construction, Alteration, and Demolition Operations	P
NFPA 326	Safe Entry Into Tanks Containing Flammable or Combustible Liquids (Formerly NFPA 327A)	N
NFPA 327	Cleaning or Safeguarding Small Tanks and Containers	P
NFPA 395	Flammable and Combustible Liquids on Farms and Isolated Construction Projects	P
NFPA 403	Aircraft Rescue and Fire Fighting Services at Airports	C
NFPA 412	Aircraft Rescue and Fire Fighting Foam Equipment	P
NFPA 416	Airport Terminal Buildings	C
NFPA 480	Magnesium	C

Document No.	Title	Action
NFPA 651	Aluminum and Magnesium Powder	P
NFPA 655	Sulfur Fires and Explosions	P
NFPA 664	Wood Processing and Woodworking Facilities	P
NFPA 906	Fire Incident Field Notes (Formerly NFPA 906M)	R
NFPA 912	Fire Protection in Places of Worship	C
NFPA 1002	Fire Apparatus Driver/Operator Professional Qualifications	P
NFPA 1021	Fire Officer Professional Qualifications	C
NFPA 1031	Fire Inspector Professional Qualifications	C
NFPA 1221	Public Fire Service Communication Systems	P
NFPA 1231	Water Supplies for Suburban and Rural Fire Fighting	C
NFPA 1420	Pre-Incident Planning for Warehouse Occupancies	N
NFPA 1973	Gloves for Structural Fire Fighting	C
NFPA 1977	Protective Clothing and Equipment for Wildland Fire Fighting	N
NFPA 1982	Personal Alert Safety Systems (PASS) for Fire Fighters	P
NFPA 8504	Combustion Hazards in Atmospheric Fluidized Bed Combustion System Boilers (Formerly NFPA 85H)	C

P=Partial revision.
W=Withdrawal.
R=Reconfirmation.
N=New.
C=Complete Revision.

[FR Doc. 92-18466 Filed 8-4-92; 8:45 am]
BILLING CODE 3510-13-M

National Institute of Standards and Technology

Senior Executive Service: Membership of General and Limited Performance Review Boards

The General Performance Review Board (GPRB) reviews performance agreements, appraisals, ratings, and recommended actions pertaining to employees in the Senior Executive Service and makes appropriate recommendations to the Director of NIST concerning such matters in such a manner as will assure the fair and equitable treatment of senior executives. The GPRB performs its review functions for all NIST senior executives except those who are members of the NIST Executive Board and those who are members of the GPRB.

The Limited Performance Review Board (LPRB) performs its review functions for all NIST senior executives who are members of the NIST Executive Board (except the NIST Deputy Director) and those senior executives who are members of the NIST GPRB.

Individuals who have been newly appointed by the Director of NIST to membership on the GPRB and LPRB or have had their term of membership extended are listed below:

GPRB

Dr. Brian C. Belanger (Chair), Deputy Director, Advanced Technology Program, National Institute of Standards and Technology, Gaithersburg, MD 20899
Appointment expires: 12/31/94

Mr. F. Lynn McNulty, Associate Director for Computer Security, Computer Systems Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899
Appointment expires: 12/31/94

Dr. Harry I. McHenry, Chief, Materials Reliability Division, Materials Science and Engineering Laboratory, National Institute of Standards and Technology, Boulder, CO 80303
Appointment expires: 12/31/94

Dr. Willie E. May, Chief, Organic Analytical Research Division, Chemical Science and Technology Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899
Appointment expires: 12/31/92

LPRB

Mr. Karl E. Bell, Deputy Director Office of the Director of Administration, National Institute of Standards and Technology, Gaithersburg, MD 20899
Appointment expires: 12/31/93

The full membership and expiration dates of the GPRB and LPRB are listed below:

GPRB

Dr. Brian C. Belanger (Chair), Deputy Director, Advanced Technology Program, National Institute of Standards and Technology, Gaithersburg, MD 20899
Appointment expires: 12/31/94

Mr. E. Larry Heacock, Director, Office of Satellite Operations, National Environmental Satellite Data and Information Service, National Oceanic and Atmospheric Administration, Washington, DC 20233
Appointment expires: 12/31/92

Dr. Willie E. May, Chief, Organic Analytical Research Division, Chemical Science and Technology Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899
Appointment expires: 12/31/92

Dr. Donald J. Sullivan, Chief, Time and Frequency Division, National Institute of Standards and Technology, Boulder, CO 80303
Appointment expires: 12/31/92

Mr. Robert Scace, Director, Office of Microelectronics Programs, Electronics and Electrical Engineering Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899
Appointment expires: 12/31/92

Mr. Lynn McNulty, Associate Director for Computer Security, Computer Systems Laboratory, National Institute of Standards and Technology, Gaithersburg, MD 20899
Appointment expires: 12/31/92

Dr. Harry I. McHenry, Chief, Materials Reliability Division, Materials Science and Engineering Laboratory, National Institute of Standards and Technology, Boulder, CO 80303
Appointment expires: 12/31/92

LPRB

Dr. George Sinnott (Chair), Director for International and Academic Affairs, Office of the Director, National Institute of Standards and Technology, Gaithersburg, MD 20899
Appointment expires: 12/31/92

Mr. J. Michael St. Clair, Chief, Engineering Division, National Weather Service, National Oceanic and Atmospheric Administration, Silver Spring, MD 20910
Appointment expires: 12/31/92

Mr. Karl E. Bell, Deputy Director, Office of the Director of Administration, National Institute of Standards and Technology, Gaithersburg, MD 20899

Appointment expires: 12/31/92

For further information contact Mrs. Ellen M. Dowd, Chief, Office of Personnel and Civil Rights, National Institute of Standards and Technology, Gaithersburg, telephone 301–975–3000.

Dated: July 24, 1992.

John W. Lyons,

Director.

[FR Doc. 92–18465 Filed 8–4–92; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, DOC.

ACTION: Notice of availability of evaluation findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for the Florida Coastal Management Program (FCMP) and the Weeks Bay National Estuarine Research Reserve (WBNERR) in Alabama. Section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended, requires a continuing review of the performance of states with respect to coastal management and the operation and management of national estuarine reserves.

The State of Florida was found to be not fully adhering to the Federally-approved FCMP, the underlying requirements of the CZMA and its implementing regulations (15 CFR part 923), or the terms of its financial assistance awards. The state must take several necessary actions to bring the FCMP back into compliance with Federal requirements.

The State of Alabama was found to be generally adhering to Federal program goals, the Federally-approved WBNERR management plan, and the terms of its financial assistance awards. Several necessary actions and program suggestions were recommended to improve the WBNERR program.

Copies of these findings may be obtained upon request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue, NW., Washington, DC 20235, (202) 606–4100.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: July 27, 1992.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 92–18500 Filed 8–4–92; 8:45 am]

BILLING CODE 3510–08–M

[Docket No. 920662–2162]

Taking and Importing of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of removal of secondary embargoes.

SUMMARY: NMFS issues a notice to importers that the secondary embargoes placed into effect against yellowfin tuna and yellowfin tuna products from the intermediary nations of Ecuador, Indonesia, the Republic of Korea, the Republic of the Marshall Islands, Panama, Taiwan, Thailand, Trinidad & Tobago and Venezuela at 12:01 a.m. on January 31, 1992, have been lifted.

ADDRESSES: E.C. Fullerton, Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Director, Southwest Region, NMFS at 310/980–4001 or FTS 795–4001.

SUPPLEMENTARY INFORMATION: On Friday, January 10, 1992, the U.S. District Court for the Northern District of California ordered the Administration to broaden the scope of the intermediary nation embargo to include all yellowfin tuna exported to the United States from all nations also importing yellowfin tuna, unless the intermediary nation has certified and provided reasonable proof that it has acted to ban the importation of yellowfin tuna harvested in the eastern tropical Pacific Ocean (ETP) by harvesting nations embargoed by the United States (currently Mexico, Venezuela and Colombia). This embargo replaced those previously imposed as a result of Federal court orders issued by the U.S. District Court for the Northern District of California and described in an announcement on March 25, 1991 (56 FR 12367). That announcement specified that NMFS would adhere to the terms of the February 1991 and March 1991 court-ordered embargoes with respect to any embargoes applied to intermediary nations, and would limit any intermediary nation embargoes to yellowfin tuna or products derived from yellowfin tuna harvested with purse seines in the ETP by the embargoed harvesting nations.

NMFS has found that the following nations have provided acceptable documentation to show that (a) they are not intermediary nations; or (b) acceptable certification and reasonable proof, as required by the court order, that they have acted to ban the import into that nation of yellowfin tuna and tuna products containing yellowfin tuna that are banned from direct export to the United States; and (c) that the legal action to prohibit the import of tuna is enforceable by that nation.

Nation	Date lifted
Marshall Islands	February 26, 1992.
Ecuador	February 28, 1992.
Taiwan	February 28, 1992.
Thailand	March 10, 1992.
Panama	April 24, 1992.
Trinidad & Tobago	April 24, 1992.
Venezuela	April 24, 1992
Korea, Rep. of	May 7, 1992.
Indonesia	June 9, 1992.

Secondary embargoes on all yellowfin tuna and yellowfin tuna products from the countries of Canada, Colombia, Cost Rica, France, Italy, Japan, Malaysia, the Netherlands Antilles, Singapore, Spain, and the United Kingdom remain in place.

Dated: July 30, 1992.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 92–18482 Filed 8–4–92; 8:45 am]

BILLING CODE 3510–22–M

[Docket No. 920669–2169]

Regulations Governing the Taking of Marine Mammals Incidental to Commercial Fishing Operations; Interim Exemption for Commercial Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of proposed List of Fisheries to be effective in calendar year 1993 and request for comments thereon.

SUMMARY: NMFS proposes that the List of Fisheries for 1992, associated with the Interim Exemption for Commercial Fisheries under section 114 of the Marine Mammal Protection Act of 1972 (MMPA) be effective for 1993. NMFS is requesting comments on this proposal.

DATES: Comments must be received on or before September 3, 1992.

ADDRESSES: Send comments to Dr. Nancy Foster, Director, Office of Protected Resources, NMFS, 1335 East-

West Highway, room 8258, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Robert C. Ziobro, Office of Protected Resources, Protected Species Management Division, NMFS, at 301/427–2322.

SUPPLEMENTARY INFORMATION: Section 114 of the MMPA established an interim exemption for the taking of marine mammals incidental to commercial fishing operations and requires NMFS to publish a List of Fisheries, along with the marine mammals and number of vessels or persons involved in each such fishery in three categories as follows:

(I) A frequent incidental taking of marine mammals;
(II) An occasional incidental taking of marine mammals; or
(III) A remote likelihood, or no known incidental taking, of marine mammals.

Based on congressional guidance, NMFS' interpretation of the 1988 amendments to the MMPA, public comment and meetings and consultations with state and Federal agencies, Regional Fishery Management Councils and other interested parties, NMFS published the original List of Fisheries on April 20, 1989 (54 FR 16072). The list for 1991 was published on February 7, 1991 (56 FR 5138) and the list for 1992 was published on May 12, 1992 (57 FR 20328).

An interim rule governing the taking of marine mammals incidental to commercial fishing operations was published on May 19, 1989 (54 21910), and a final rule governing reporting the take of marine mammals incidental to commercial fishing operations was published on December 15, 1989 (54 FR 51718). All determinations concerning issuing and maintaining the List of Fisheries were made in the process of promulgating the interim rule.

The following criteria were used in classifying fisheries in the List of Fisheries for 1992:

Category I. There is documented information indicating a "frequent" incidental taking of marine mammals in the fishery. "Frequent" means that it is highly likely that more than one marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period.

Category II. (1) There is documented information indicating an "occasional" incidental taking of marine mammals in the fishery, or (2) in the absence of information indicating the frequency of incidental taking of marine mammals, other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, and species and distribution of marine mammals in the area suggest there is a likelihood of at least an "occasional" incidental taking in the fishery. "Occasional" means that there is some likelihood that one marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period, but that there is little likelihood that more than one marine mammal will be incidentally taken.

Category III. (1) There is information indicating no more than a "remote likelihood" of an incidental taking of a marine mammal in the fishery, or (2) in the absence of information indicating the frequency of incidental taking of marine mammals, other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, and species and distribution of marine mammals in the area suggest there is no more than a remote likelihood of an indicental take in the fishery. "Remote likelihood" means that it is highly unlikely that any marine mammal will be incidentally taken by a randomly selected vessel in the fishery during a 20-day period.

Section 114(b)(1)(C) of the MMPA as implemented by 50 CFR 229.3(a)(1) requires the Assistant Administrator for Fisheries, NOAA, to annually publish and request comments on proposed revisions to the List of Fisheries to be effective for the next calendar year. Accordingly, NMFS proposes that the List of Fisheries for 1992 be effective for 1993 and requests comments on this proposal.

NMPS will continue to monitor fisheries, collect observer data, and analyze this information along with vessel owner log information. All information will be used as appropriate for further classification of fisheries.

Dated: July 29, 1992.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 92–18483 Filed 8–4–92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Transshipment Charges for Certain Cotton Textile Products Produced or Manufactured in Pakistan

July 30, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs charging illegal transshipments to 1992 limits.

EFFECTIVE DATE: August 6, 1992.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a notice published in the **Federal Register** on May 7, 1992 (57 FR 19609), CITA announced that, based on investigations conducted by U.S. Customs Service, consultations would be held with the Government of Pakistan concerning illegal transshipments of textile products produced in Pakistan and exported to the United States. As a result of the consultations, CITA has determined that textile products in Categories 360 and 361 were transshipped during 1990 and 1991 in circumvention of the U.S.-Pakistan Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated May 20, 1987 and June 11, 1987, as amended and extended. The U.S. Government informed the Government of Pakistan, in a letter dated April 22, 1992, of the charges to be made to the 1992 quotas. Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to charge the following amounts to the 1992 quota levels for the categories listed below:

Category	Amount to be charged
360	189,620 numbers.
361	1,121,545 numbers.

U.S. Customs continues to conduct other investigations of such transshipments of textiles produced in Pakistan and exported to the United States. The charges resulting from these investigations will be published in the **Federal Register**.

The U.S. Government is taking this action pursuant to the U.S. letter dated April 22, 1992, the U.S.-Pakistan bilateral textile agreement, effected by exchange of notes dated January 23, 1992 and March 12, 1992, and in conformity with Paragraph 16 of the Protocol of Extension and Article 8 of the Arrangement Regarding International Trade in Textiles, done at Geneva on

December 20, 1973 and extended on December 14, 1977, December 22, 1981, July 31, 1986 and July 31, 1991.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 57 FR 14563, published on April 21, 1992.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 30, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: To facilitate implementation of the Bilateral Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated May 20, 1987 and June 11, 1987, as amended and extended, betwen the Governments of the United States and Pakistan, I request that, effective on August 6, 1992, you charge the following amounts to the following categories for 1992 (see directive dated April 15 1992):

Category	Amount to be charged
360	189,620 numbers.
361	1,121,545 numbers.

This letter will be published in the **Federal Register.**

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–18513 Filed 8–4–92; 8:45 am]

BILLING CODE 3510-DR-F

Announcement of a Request for Bilateral Textile Consultations on Certain Wool Textile Products Produced or Manufactured in Hong Kong

July 29, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On July 14, 1992, the Government of the United States requested consultations with the Government of Hong Kong regarding imports of men's and boys' suit-type coats in Category 433, produced or manufactured in Hong Kong. This request was made on the basis of the current bilateral agreement between the Governments of the United States and Hong Kong.

The United States reserves the right to control imports at the level under paragraph 7 of the agreement. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Hong Kong, further notice will be published in the **Federal Register.**

Anyone wishing to comment or provide data or information regarding the treatment of Category 433, under the agreement with the Government of Hong Kong, or in any aspect thereof, or to comment on domestic production or availability of products included in Category 433, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Hong Kong.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–18464 Filed 8–4–92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee

AGENCY: National Communications System, DoD.

A meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee will be held on Wednesday, August 26, 1992 from 9 a.m. to 3:30 p.m. at the Mitre-Hayes Building, 7525 Colshire Drive, McLean, VA 27006. The agenda is as follows:

—Administrative Remarks
—Operations Working Group
—Plans Working Group
—Funding and Regulatory Working Group
—Energy Task Force
—Network Security Standards Oversight Group
—Wireless Services Task Force
—Enhanced Call Compliance Ad Hoc Group
—New Business

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (703) 692–9274 or write the Manager, National Communications Systems, 701 S. Court House Road, Arlington, VA 22204–2198.

Dated: July 31, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–18511 Filed 8–04–92; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of Commerce.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Defense FAR Supplement, Part 235, Research and Development Contracting, and the clauses at 252.235; Forms DD 2222 and 2222–2; OMB Control Number 0704–0262.

Type of Request: Reinstatement.

Average Burden Hours/Minutes Per Response: 1.93 hours.

Responses Per Respondent: 1.

Number of Respondents: 751.

Annual Burden Hours: 1451.

Annual Responses: 751.

Needs and Uses: This information collection requirement concerns information related to Research and Development contracting including Short Form Research Contracts.

Affected Public: Businesses or other for-profit, Non-profit institutions, and Small businesses or organizations.

Frequency: On Occasion.

Respondents Obligation: Required to obtain or retain a benefit.

Desk Officer: Mr. Peter Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: July 31, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–18510 Filed 8–4–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Committee on Technology to Support Force Projection: Global Reach—Global Power will meet on 22 August 1992 from 8 a.m. to 12 p.m. at the Pentagon, Washington, DC 20330–5430.

The purpose of this meeting will be to brief the results of the 1992 Summer Study to the Air Force Chief of Staff. This meeting will involve discussions of classified defense matters in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–18551 Filed 8–4–92; 8:45 am]

BILLING CODE 3910–01–M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 12, 1992. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:30 p.m. in the Reidy Room at the Shawnee Inn, Shawnee-on-Delaware, Pennsylvania.

An informal conference session among the Commissioners and staff will be open for public observation at 9:30 a.m. in the Pearsall Room at Shawnee Inn and will include discussion of golf course irrigators' status of compliance, cogeneration policy issues, the upper Delaware ice jam project and amendment of Compact Section 15.1(b) to fund the Francis E. Walter Reservoir project.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Jim Thorpe Municipal Authority D–81–71–CP RENEWAL–2.* An application for the renewal of a ground water withdrawal project to supply up to 14.1 million gallons (mg)/30 days of water to the applicant's distribution system from Well Nos. 1 and 4. Commission approval on May 27, 1987 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 14.1 mg/30 days. The project is located in Jim Thorpe Borough, Carbon County, Pennsylvania.

2. *Town of Milton D–83–22 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 10 mg/30 days of water to the applicant's distribution system from Well Nos. 2, 3, 4 and 5. Commission approval on September 22, 1987 was limited to five year and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 10 mg/30 days. The project is located in the Town of Milton, Sussex County, Delaware.

3. *Pennsylvania Department of Corrections D–84–41 CP (Revised).* An application for approval of a revision of the Graterford Correction Institute Sewage Treatment Plant (STP) upgrade and expansion project by addition of phosphorus removal facilities. The project will complete a proposed upgrade and expansion that will include new biological secondary treatment facilities. The STP will operate at up to 1.5 million gallons per day (mgd) and discharge to an unnamed tributary of Perkiomen Creek and/or to spray irrigation fields situated on the Institute's property, located near the STP, approximately one mile east of the Village of Graterford in Skippack Township, Montgomery County, Pennsylvania.

4. *Coastal Eagle Point Oil Company D–86–15 RENEWAL.* An application for the renewal of a ground water withdrawal of up to 4.32 and 0.144 mg/30 days of water from the applicant's abatement Well Nos. RW–1 and 147–2, respectively. Commission approval on August 5, 1987 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 232 mg/30 days. The project is located in West Deptford Township, Gloucester County, New Jersey.

5. *Town of Middletown—Arkville Water District D–86–77 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 4.5 mg/30 days of water to the applicant's distribution system from Well Nos. 3 and 4. Commission approval on May 27, 1987 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 4.5 mg/30 days. The project is located in the Town of Middletown, Delaware County, New York.

6. *Country Place Water Company, Inc. D–87–33 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 4.32 and 6.48 mg/30 days of water to the applicant's distribution system from Well Nos. 3 and 4, respectively. Commission approval on June 24, 1987 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 13.5 mg/30 days. The project is located in Coolbaugh Township, Monroe County, Pennsylvania.

7. *Schuylkill County Municipal Authority D–90–49 CP (Revised).* An out-of-basin diversion project which entails the transfer of 0.34 mgd from the applicant's Mount Laurel Reservoir to a

proposed State Correctional Institution (SCI) located in the applicant's Mahanoy Township service area in the Delaware River Basin. However, the SCI will discharge to the Mahanoy City Sewerage Authority's STP located in the Susquehanna River Basin. The project is all within Schuylkill County, Pennsylvania, and the Mount Laurel Reservoir is located on Mud Run in New Castle Township. No increase in the total allocation of 0.6 mgd from Mount Laurel Resevoir is proposed.

8. *New Jersey-American Water Company—Northern Division D–90–89 CP.* An application for approval of a ground water withdrawal project to supply up to 15 mg/30 days of water to the applicant's Belvidere System from new Well Nos. 1 and 2, and to limit the withdrawal from all wells to 15 mg/30 days. The project is located in White Township, Warren County, New Jersey.

9. *Village of Hobart D–91–63 CP.* A sewage treatment plant (STP) upgrade and expansion project to replace the existing village of Hobart STP. The existing STP was designed to provide 0.075 mgd of secondary wastewater treatment to serve the Village of Hobart. The new plant will provide 0.16 mgd of secondary treatment with tertiary filtration and the existing plant will be dismantled when the new plant is operational. The treated effluent will continue to discharge to the West Branch Delaware River in Water Quality Zone WI, located just south of Hobart in the Town of Stamford, Delaware County, New York.

10. *Grasso Foods, Inc. D–91–68.* An industrial wastewater treatment project that entails modifications to an existing pepper processing wastewater treatment facility. The applicant proposes to modify its on-site lagoon system to provide aerobic biological treatment and continue to discharge 0.1 mgd to ground water via infiltration/percolation basin #3. The treatment facility is located just south of the corporate boundary of the Borough of Swedesboro in Woolwich Township, Cloucester County, New Jersey.

11. *Philadelphia Suburban Water Company D–91–86 CP.* An application for the renewal of six ground water withdrawal projects and to limit the total withdrawal from all wells supplying water to the applicant's Great Valley Division distribution system. Commission approval of Docket Nos. D–78–95 CP RENEWAL, D–80–88 CP RENEWAL, D–81–74 CP Revised RENEWAL, D–83–28 CP RENEWAL, D–84–30 CP, and D–85–19 CP is limited to five years and will expire unless renewed. This docket combines all wells of the Great Valley Division into one consolidated docket, subject to a consolidated allocation of ground water. The applicant requests that the total withdrawal from all wells be limited to 74.76 mg/30 days. The projects are located in East Goshen, West Goshen, Westtown, Birmingham, West Whiteland and East Bradford Townships, Chester County, in the Southeastern Pennsylvania Ground Water Protected Area.

12. *Walnut Bank Water Company D–91–96 CP.* A ground water withdrawal project to serve as a standby source of supply for the applicant's Walnut Bank Farm Development. Currently the project is served by Well No. 2, approved by Docket No. D–88–69 on January 25, 1989. The applicant requests that the withdrawal from standby Well No. 3 be limited to 5.16 mg/30 days, and that the total withdrawal from all wells remain limited to 5.16 mg/30 days. The project is located in Richland Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

13. *Township of Buckingham D–92–2 CP.* An application for approval of a ground water withdrawal project to supply up to 3.14 mg/30 days of water to the applicant's distribution systems from new Well Nos. BV–1 and BV–2, and to include recently acquired Well Nos. CS–1, CS–2 and CS–3 for a total withdrawal from all wells of 11.0 mg/30 days. Well Nos. CS–1 and CS–2 were most recently approved as Fieldstone Place Well Nos. 1 and 2 for Windridge Inc. by DRBC Docket D–81–70 PA RENEWAL. Well No. CS–3 was most recently approved as the Nanlyn Farm Wells No. 1 for Herbert Barness by DRBC Docket D–86–66. The project is located in Buckingham Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

14. *Woodstown Sewerage Authority D–92–19 CP.* A sewage treatment plant (STP) upgrade and expansion project that proposes to replace the existing trickling filter secondary level STP by constructing an extended aeration activated sludge STP with tertiary filtration facilities. The existing STP has a design treatment capacity of 0.30 mgd and the proposed STP will have a maximum monthly design capacity of 0.50 mgd. The STP will continue to serve Woodstown Borough and small portions of Pilesgrove and Mannington Townships and discharge to the Salem River just west of the STP located between West Avenue and Spring Garden Street and Woodstown Borough, Salem County, New Jersey.

15. *City of Wilmington D–92–29 CP.* An application for approval of the transfer of up to 10 mgd of treated water via an interconnection proposed near the City of Wilmington's Porter Filter Plant. The interconnection will enable the City of Wilmington to transfer the treated water to the Wilmington Suburban Water Corporation which serves portions of New Castle County. The interconnection will be located near the Augustine Cut-Off and Route 202 just north of the City of Wilmington in New Castle County, Delaware.

16. *Harcros Pigments Inc. D–92–38.* An application for a rerating of an existing 0.95 mgd industrial wastewater treatment plant (IWTP) to increase its allowable treatment capacity to 1.29 mgd. The IWTP treats process wastewaters generated by the applicant's pigment manufacturing operation. No new facilities are proposed. The applicant has also requested a new determination of the allowable Total Dissolved Solids limits. The applicant also requires an approval of its existing surface water withdrawal from Bushkill Creek of up to 2.61 mgd. The IWTP will continue to discharge to Bushkill Creek located just northeast of the plant site in the City of Easton, Northampton County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: July 28, 1992.

Susan M. Weisman,

Secretary.

[FR Doc. 92–18499 Filed 8–4–92; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Determination To Establish the Secretary of Energy Advisory Board Task Force on Space Nuclear Systems

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), and in accordance with 41 CFR part 101–6, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Secretary of Energy Advisory Board Task Force on Space Nuclear System has been established.

The Task Force will provide advice to the Secretary of Energy on priorities and program balance for the research and development responsibilities, activities, and operations of the DOE's Deputy

Assistant Secretary for Space and Defense Power Systems in the Office of Nuclear Energy, the Office of Energy Research and the Office of Space in space nuclear related activities.

The membership of the Task Force shall include approximately 6 to 8 individuals, selected on the basis of their professional experience and competence in areas related to space nuclear power and propulsion systems as well as present and future space related activities. Appointments will be made for up to two years. Particular attention will also be paid to obtaining a balance of interests, points of view, and geography.

The establishment of the Secretary of Energy Advisory Board Task Force on Space Nuclear Systems has been determined necessary and in the public interest in connection with the performance of duties imposed upon the DOE by law. The Task Force will operate in accordance with the provisions of FACA, the DOE Organization Act, the GSA Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee can be obtained from Scott Gray, the Designated Federal Officer, at (202) 586–0023.

Issued in Washington, DC on July 31, 1992.

Howard H. Raiken,

Advisory Committee Management Officer.

[FR Doc. 92–18562 Filed 8–4–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2529–006 Maine]

Central Maine Power Co., Availability of Environmental Assessment

July 29, 1992

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486 , 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for nonproject use of project lands (timber harvest) at the Bonny Eagle Project, on the Saco River, York and Cumberland Counties, Maine. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed actions. In the EA, the staff concludes that approval of the timber harvest would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, Room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92–18479 Filed 8–4–92; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2413–017 Georgia]

Georgia Power Co.; Availability of Environmental Assessment

July 29, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for license amendment at the Wallace Dam Project, Lake Oconee and Lake Gregory, Putnam County, Georgia. The application is for permission to breech an earthen dam separating Lake Gregory from Lake Oconee. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, the staff concludes that approval of the amendment would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92–18478 Filed 8–4–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. G–7154–001, et al.]

Chevron U.S.A. Inc.; Applications for Termination or Amendment of Certificates [1]

July 30, 1992.

Chevron U.S.A. Inc. filed applications under section 7 of the Natural Gas Act for authorization to terminate or amend certificates or to abandon service as described herein, all as more fully described in the respective applications which are on file with the Commission and open for public inspection.

To be heard or to protest these applications a person must file a protest or a motion to intervene on or before August 13, 1992. A person filing a protest or a motion to intervene must follow the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All motions to intervene or protests must be filed with the Federal Energy Regulatory Commission, Washington, DC 20426.

The Commission will consider all filed protests in deciding the appropriate action to take but filing a protest does not make a protestant a party to a proceeding. A person wanting to be a party to a proceeding or to participate as a party in a hearing must file a petition to intervene.

Under the procedure provided for here, unless otherwise advised, Chevron will not have to appear or be represented at any hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the matters covered herein.

Docket No. and Date filed	Applicant	Purchaser and location	Description
G–7154–001, D, 5–22–92	Chevron U.S.A. Inc., 1301 McKinney, Houston, TX 77010.	Texas Eastern Transmission Corporation, Arneckeville Field, Dewitt County, Texas.	Assigned 7–10–91 to Marwell Petroleum, Inc.
G–7156–002, D, 5–18–92	Chevron U.S.A. Inc	El Paso Natural Gas Company, Waddell Gas Processing, Plant, Crane County, Texas.	Assigned 1–7–92 to Torch Energy Advisors, Incorporated.
G–9885–002, D, 5–22–92	Chevron U.S.A. Inc	Texas Eastern Transmission Corporation, Arneckeville Field, Dewitt County, Texas.	Assigned 7–10–91 to Marwell Petroleum, Inc.

Docket No. and Date filed	Applicant	Purchaser and location	Description
G-13445-001, D, 5-18-92	Chevron U.S.A. Inc	El Paso Natural Gas Company, Waddell Gas Processing, Plant, Crane County, Texas.	Assigned 1-7-92 to Torch Energy Advisors, Incorporated.
CI61-1711-000, D, 5-18-92	Chevron U.S.A. Inc	Ringwood Gathering Company, Ringwood Field, Major County, Oklahoma.	Assigned 11-12-91 to Capmac, Inc.
CI92-47-000 (CI65-792), D, 5-18-92.	Chevron U.S.A. Inc	Lone Star Gas Company, North Dibble Field, McClain County, Oklahoma.	Assigned 10-1-91 to BHP Petroleum (Americas) Inc.
CI92-48-000, (CI78-1091), D, 5-18-92.	Chevron U.S.A. Inc	Texas Eastern Transmission Corporation, Bethany—Longstreet Field, Caddo and DeSoto Parishes, Louisiana.	Assigned 12-17-90 to WHW, Inc.
CI92-49-000 (CI79-291), D, 5-18-92.	Chevron U.S.A. Inc	Texas Eastern Transmission Corporation, Bethany—Longstreet Field, Caddo and DeSoto Parishes, Louisiana.	Assigned 12-17-90 to WHW, Inc.
CI92-50-000 (G-5720), D, 5-18-92.	Chevron U.S.A. Inc	Texas Eastern Transmission Corporation, Hico-Knowles Field, Lincoln, Parish; Tremont Field, Ouachita, Parish, Louisiana.	Assigned 12-17-90 to WHW, Inc.
CI92-52-000 (CI70-904), D, 5-22-92.	Chevron U.S.A. Inc	High Plains Natural Gas Company, West Reydon Field, Rogers Mills County, Oklahoma.	Assigned 7-9-91 to Kaiser-Francis Oil Company.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Assignment of acreage; E—Succession; F—Partial Succession.

[FR Doc. 92-18583 Filed 8-4-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP92-208-000]

Florida Gas Transmission Co.; Petition for Limited Waiver of Tariff Provisions

July 30, 1992.

Take notice that on July 28, 1992, Florida Gas Transmission Company ("FGT") hereby petitions the Federal Energy Regulatory Commission ("Commission") for a limited waiver of Commission policy and FGT's FERC Gas Tariff, to the extent necessary, to allow FGT to add an additional delivery point to an existing agreement for interruptible transportation service under Rate Schedule ITS-1 for Okaloosa County Gas District ("Okaloosa"), while permitting Okaloosa to maintain its existing priority date under such agreement.

FGT states that good cause exists for granting the requested waiver in that (i) FGT will continue to serve the same customer, Okaloosa; (ii) the delivery point is in the same geographic location as Okaloosa's traditional service area; and (iii) the additional delivery point will not interfere with FGT's ability to render firm service to FGT's other customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 6, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-18580 Filed 8-04-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RS92-41-000]

Midwestern Gas Transmission Co.; Conference

July 29, 1992.

Take notice that on August 25, 1992, a conference will be convened in the above-captioned docket to discuss Midwestern Gas Transmission Company's (Midwestern) summary of its proposed plan for implementation of Order No. 636.

The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Hearing room 1, Washington, DC 20426. The conference will begin at 10 a.m. All interested persons are invited to attend. Attendance at the conference, however, will not confer party status.

Lois D. Cashell,

Secretary.

[FR Doc. 92-18477 Filed 8-4-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RS92-23-000, RP91-203-000, and RP92-132-000, (Consolidated, in part)]

Tennessee Gas Pipeline Co.; Conference

July 30, 1992.

Take notice that on August 13, 1992, beginning at 10 a.m., a conference will be convened in the above-captioned restructuring docket. The conference will be held in the first floor Auditorium at the Department of Health and Human Services, 330 Independence Ave., SW., Washington, DC.

This conference is being held so that Tennessee Gas Pipeline Company (Tennessee) can explain to the Staff of the Federal Energy Regulatory Commission and the intervenors in this proceeding Tennessee's Order No. 636 Restructuring Proposal. Tennessee provided all parties to the proceeding a Summary of its Restructuring Proposal on July 7, 1992.

All interested parties are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested parties can call Sharon Dameron at (202) 208-2017.

Lois D. Cashell,

Secretary.

[FR Doc. 92-18582 Filed 8-4-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GT92-30-000]

Transcontinental Gas Pipe Line Corp.; Report of Refunds

July 30, 1992.

Take notice that on July 1, 1992,

Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing its Report of Refunds pursuant to sections 29, and 32 through 37 of the General Terms and Conditions of Transco's FERC Gas Tariff, Third Revised Volume No. 1. The refunds arise from the Fixed and Commodity Producer Settlement Payment (PSP) charges during the annual recovery period of May 1, 1991 through April 30, 1992, and the Litigant Producer Settlement Payment (LPSP) charges during the annual period June 1, 1991 through May 31, 1992. The refund amounts represent the difference between the PSP and LPSP charges collected during the respective annual recovery periods and the Fixed and Commodity PSP and LPSP charges which Transco would have collected based on actual quarterly interest rates in effect during such periods.

Transco states that on June 30, 1992, it issued all applicable refunds totalling $2,470,659.55, including interest, to its sales and transportation customers, in accordance with its Gas Tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 6, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-18579 Filed 8-4-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RS92-90-000]

Wyoming Interstate Company, Ltd.; Conference

July 30, 1992.

Take notice that on August 11, 1992, a conference will be convened in the above-captioned docket to discuss Wyoming Interstate Company, Ltd.'s summary of its proposed plan for implementation of Order No. 636.

The conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Hearing room 7, Washington, DC 20426. The conference will begin at 10 a.m. All interested persons are invited to attend. Attendance at the conference, however, will not confer party status. For additional information, interested persons can call Whit Holden at (202) 208-1118.

Lois D. Cashell,

Secretary.

[FR Doc. 92-18581 Filed 8-4-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Case No. F-049]

Energy Conservation Program for Consumer Products; Decision and Order Granting a Waiver From the Furnace Test Procedure to Rheem Manufacturing Co.

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. F-049) granting a Waiver to Rheem Manufacturing Company (Rheem) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Rheem its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its GVG series of gas furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-431, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-41, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Rheem has been granted a Waiver for its GVG series of gas furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, July 30, 1992.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1988 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Rheem filed a "Petition for Waiver," dated February 12, 1992, in accordance with § 430.27 of 10 CFR part 430. DOE published in the Federal Register on April 28, 1992, Rheem's petition and solicited comments, data and information respecting the petition. 57 FR 17903. Rheem also filed an "Application for Interim Waiver" under § 430.27(g) which DOE granted on April 17, 1992. 57 FR 17903, April 28, 1992.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." DOE consulted with The Federal Trade Commission (FTC) concerning the Rheem Petition. The FTC did not have any objections to the issuance of the waiver to Rheem.

Assertions and Determinations

Rheem's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Rheem requests the allowance to test using a 30-second blower time delay when testing its GVG series of gas furnaces. Rheem states that since the 30-second delay is indicative of how those models actually operate and since such a delay results in an improvement in efficiency of approximately 2.0 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times or less than the prescribed 1.5-minute delay. Rheem indicates that it is unable to take advantage of any of these exceptions for its GVG series of gas furnaces.

Since the blower controls incorporated on the Rheem furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Rheem GVG series of gas furnaces. Accordingly, with regard to testing the GVG series of gas furnaces, today's Decision and Order exempts Rheem from the existing provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by Rheem Manufacturing Company (Case No. F-049) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix N of 10 CFR part 430, Subpart B, Rheem Manufacturing Company shall be permitted to test its GVG series of gas furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below.

(i) Section 3.0 of Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103-82 with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRAE 103-82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnaces and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t−), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t−), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, Rheem Manufacturing Company shall comply in all respects with the test procedures specified in Appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the GVG series of gas furnaces manufactured by Rheem Manufacturing Company.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective July 30, 1992, this Waiver supersedes the Interim Waiver granted The Rheem Manufacturing Company on April 17, 1992. 57 FR 17903, April 28, 1992 (Case No. F-049).

Issued in Washington, DC, July 30, 1992.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 92-18565 Filed 8-04-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 92-51-NG]

MG Natural Gas Corp.; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting MG Natural Gas Corp. blanket authorization to export up to 50 Bcf of natural gas to Mexico over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, July 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-18564 Filed 8-4-92; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Cooperative Agreement: Financial Assistance Award to Navajo Fish and Wildlife Department, Navajo Nation, Window Rock, AZ

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of acceptance of an unsolicited financial assistance application for a cooperative agreement award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.14(e)(1), the Western Area Power Administration

(Western) gives notice of its plans to award an 18-month Cooperative Agreement to the Navajo Nation, Navajo Fish and Wildlife Department (NFWD), in the amount of approximately $38,000. The pending award is based on an unsolicited proposal submitted by NFWD to conduct a study on desert bighorn sheep in an area of the Navajo Nation surrounding a Western microwave communications facility. The population of desert bighorn sheep is an apparently recent natural reintroduction of the species to the area.

The NFWD is concerned that activities associated with the microwave communications facility may adversely affect the desert bighorn sheep. The study would obtain information about the size, seasonal movements of the population, and other factors. NFWD would use the results of the study to manage the population of desert bighorn sheep to ensure its continued viability. Western would use the information gained from the study to conduct routine maintenance of its microwave communications facility in such a manner as to minimize effects on the desert bighorn sheep.

FOR FURTHER INFORMATION CONTACT: Ruth E. Adams, Contract Specialist, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231-7709, Purchase Requisition Number LL-PR-03817.

Issued at Golden, Colorado, July 21, 1992.

William H. Clagett,

Administrator.

[FR Doc. 92-18563 Filed 8-4-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4191-8]

Approval of Prevention of Significant Air Quality Deterioration (PSD) Permit to AFG Industries, Inc. (EPA Project Number SE 86-02)

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on September 26, 1989, the Environmental Protection Agency issued a PSD permit under EPA's federal regulations 40 CFR 52.21 to the applicant named above. The PSD permit grants approval to AFG Industries, Inc. to increase the NO_x emissions limit and change the hourly averaging time from 3 to 24 hours. The permit is subject to certain conditions, including an allowable emission rate as follows: NO_x, 200 lbs/hr, 24-hour average, SO_2, 15 lbs/hour, 3-hour average.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to:

Linda Barajas (A-5-1), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1244, FTS (415) 744-1244.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include: A dry scrubber for control of SO_2 emissions and an ammonia injection system for the control of NO_x emissions.

DATES: The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed on or before October 5, 1992.

Dated: July 24, 1992.

David P. Howekamp,

Director, Air and Toxics Division, Region 9.

[FR Doc. 92-18566 Filed 8-4-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4191-6]

Chesapeake Bay Program Office, Public Meeting; Chesapeake Bay Executive Council

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Chesapeake Bay Program's Executive Council will announce a new initiative to expand the Bay restoration effort into the Bay's rivers and tributaries. The meeting is open to the public.

DATES: The meeting will be held on August 12, 1992, from 10:30 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held at Alumni Hall, U.S. Naval Academy, Annapolis, Maryland.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on any aspect of the Chesapeake Bay Executive Council meeting should contact Lori Mackey, Chesapeake Bay Program Office, U.S. EPA (3CB10) 410 Severan Avenue, Suite 109, Annapolis, Maryland, 21403, (410) 267-0061.

Dated: July 27, 1992.

Lori Mackey,

Designated Federal Official.

[FR Doc. 92-18568 Filed 8-4-92; 8:45 am]

BILLING CODE 6560-50-M

[PP 6G3350/T626; FRL 4074-2]

Carbon Disulfide; Amendment of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces amendment to a temporary tolerance for residues of the nematicide carbon disulfide in or on the raw agricultural commodity prunes at 0.1 part per million (ppm), resulting from soil applications of the nematicide sodium tetrathiocarbonate.

DATES: This temporary tolerance expires December 15, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-5540.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received an amendment for pesticide petition (PP) 6G3350, which previously published in the **Federal Register** of May 27, 1992 (57 FR 22232), stating that temporary tolerances had been renewed for residues of the nematicide carbon disulfide in or on the raw agricultural commodities almonds, almond hulls, apricots, grapes, grapefruit, lemons, oranges, peaches, plum (fresh prunes) and tomatoes at 0.1 ppm, resulting from soil applications of the nematicide sodium tetrathiocarbonate.

Unocal Agriproducts, 3960 Industrial Blvd., Suite 600-B, West Sacramento, CA 95691, has requested an amendment to (PP) 6G3350 the establish a temporary tolerance for residues of the nematicide carbon disulfide in or on the raw agricultural commodity prunes at 0.1 ppm, resulting from soil applications of the nematicide sodium tetrathiocarbonate. This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 612-EUP-1, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the

condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Unocal Agriproducts must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 15, 1993. Residues not in excess of this amount reamaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96 354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Dated: July 14, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–18457 Filed 8–4–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–100113; FRL–4079–1]

Labat-Anderson; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Labat-Anderson has been awarded a contract to perform work for the EPA Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Labat-Anderson consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2) and will enable Labat-Anderson to fulfill the obligations of the contract.

DATES: Labat-Anderson will be given access to this information no sooner than August 10, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–W9–0052, work order No. 271, Labat-Anderson will assist the Field Operations Division in collecting confidential statements of formula for canceled 2,4,5-T and silvex products from registration files. The formula information will be used to ensure a safe disposal methodology. This contract involves no subcontractor.

The Office of Pesticide Programs has determined that access by Labat-Anderson to information on 2,4,5-T and silvex formulas is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Labat-Anderson prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Labat-Anderson is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Delivery Order Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to Labat-Anderson by EPA for use in connection with this contract will be returned to EPA when Labat-Anderson has completed its work.

Dated: July 23, 1992.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 92–18130 Filed 8–4–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–240099; FRL–4076–4]

State Registrations of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 28 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**. This document contains notice of two disapproved registrations.

DATES: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Edith Minor, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW. Washington, DC 20460. Office location and telephone number: Rm. 786, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5978.

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in March through April of 1992. Receipts-of-State registrations will

be published periodically. Of the following registrations, 14 involve a changed-use pattern (CUP). The term "changed use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Alabama

EPA SLN No. AL 92 0001. ICI Americas, Inc. Registration is for Fonofos to be used on sweet potatoes to control beetle larvae. March 25, 1992.

EPA SLN No. AL 92 0002. ICI Americas, Inc. Registration is for Fonofos to be used on sweet potatoes to control beetle larvae. March 25, 1992.

EPA SLN No. AL 92 0003. Environmental Solution, Inc. Registration is for Ecobrite 1 to be used on lumber to control mold stains. March 25, 1992.

EPA SLN No. AL 92 0004. Environmental Solution, Inc. Registration is for Ecobrite 3 to be used on lumber to control mold stains. March 25, 1992.

Arizona

EPA SLN No. AZ 92 0001. AgChem Division/Atochim North America. Registration is for Maneb Plus Zinc F4 to be used on cabbage and cauliflower to control alternaria leaf spot. March 25, 1992.

EPA SLN No. AZ 92 0002. Sunbelt Transplant. Registration is for Iprodione to be used on dry bulb onions to control botrytis leaf blight. March 25, 1992.

Arkansas

EPA SLN No. AR 92 0001. Gowan Co. Registration is for Phosmet to be used on blueberries to control maggot and fruitworm. March 6, 1992.

EPA SLN No. AR 92 0002. E. I. Du Pont DeNemours and Co., Inc. Registration is for Cyanazine to be used on cotton to control grass and weeds. April 14, 1992.

EPA SLN No. AR 92 0003. Rhone-Poulenc AG Co. Registration is for 2,4-D to be used on rice to control grass and broadleaf weeds. April 14, 1992.

EPA SLN No. AR 92 0004. Rhone-Poulenc AG Co. Registration is for 2,4-D to be used on rice to control grass and broadleaf weeds. April 14, 1992.

EPA SLN No. AR 92 0005. Valent U.S.A. Corp. Registration is for Thiobencarb to be used on rice to control grasses and aquatic weeds. April 28, 1992.

California

EPA SLN No. CA 92 0001. The Jojoba Association. Registration is for Bifenthrin to be used on jojoba to control loopers, cutworms, and spider mites. March 24, 1992.

EPA SLN No. CA 92 0003. Agro-Fibers, Inc. Registration is for Malathion to be used on kenaf to control lygus bugs. March 5, 1992.

EPA SLN No. CA 92 0004. Sunworld International, Inc. Registration is for Oxyfluorfen to be used on mango trees to control weeds and grasses. March 26, 1992.

EPA SLN No. CA 92 0005. BASF Corp. Registration is for Sethoxydim to be used on grass grown for seed to control annual rye grass. March 24, 1992.

EPA SLN No. CA 92 0006. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on jojoboa to control jojoboa seedlings. April 16, 1992.

Delaware

EPA SLN No. DE 92 0001. FMC Corp. Registration is for Carbofuran to be used on potatoes to control beetles and aphids. March 2, 1992.

Florida

EPA SLN No. FL 92 0001. Griffin Corp. Registration is for Copper Hydroxide to be used on tropical fruits to control red algae and anthracnose. April 22, 1992.

EPA SLN No. FL 92 0002. Sandoz Crop Protection Corp. Registration is for Prodiamine to be used on leatherleaf fern to control bedweeds. April 28, 1992.

Georgia

EPA SLN No. GA 92 0001. Gowan Co. Registration is for Phosmet to be used on blueberries to control cranberry fruit worms. April 22, 1992.

Hawaii

EPA SLN No. HI 92 0001. Miles, Inc. Registration is for Fenamiphos to be used on banana to control burrowing and rootknot nematodes. April 20, 1992.

EPA SLN No. HI 92 0002. Miles, Inc. Registration is for Fenamiphos to be used on bananas to control nematodes and rootknot nematodes. April 20, 1992.

EPA SLN No. HI 92 0004. E. I. Du Pont DeNemours and Co., Inc. Registration is for Benomyl to be used on ginger roots to control fusarium yellow disease. March 2, 1992.

EPA SLN No. HI 92 0005. Ciba-Geigy Corp. Registration is for Fenoxycarb to be used on nonbearing coffee plants to control bigheaded and fire ants. April 15, 1992.

Idaho

EPA SLN No. ID 92 0002. FMC Corp. Registration is for Carbofuran to be used on sugarbeets to control sugarbeet rot and maggot. April 9, 1992.

EPA SLN No. ID 92 0003. Liphatech, Inc. Registration is for Chlorophacinone to be used in orchards and on ditch banks to control ground squirrels. April 9, 1992.

EPA SLN No. ID 92 0004. Helena Chemical Co. Registration is for Dimethoate to be used on lentils to control aphids and lygus bugs. April 14, 1992.

EPA SLN No. ID 92 0005. Gowan Co. Registration is for Methyl Parathion to be used on canola and rapeseed to control insects. April 24, 1992.

EPA SLN No. ID 92 0006. Helena Chemical Co. Registration is for Methyl Parathion to be used on rapeseed and canola to control weevils. April 24, 1992.

EPA SLN No. ID 92 0007. Wilbur Ellis Co. Registration is for Methyl Parathion to be used on rapeseed and canola to control insects. April 28, 1992.

Indiana

EPA SLN No. IN 92 0002. FMC Corp. Registration is for Clomazone to be used on tobacco to control grasses and broadleaf weeds. March 31, 1992.

Louisiana

EPA SLN No. LA 92 0002. AgChem Division/Atochim North America. Registration is for Endothall to be used on cotton and rice to control weeds. March 25, 1992.

EPA SLN No. LA 92 0003. E. I. Du Pont DeNemours & Co., Inc. Registration is for Cyanazine to be used on cotton and chickweed to control ryegrass. March 26, 1992.

EPA SLN No. LA 92 0004. Ciba-Geigy Corp. Registration is for Metalaxyl to be used on water-seeded rice to control pythium. April 9, 1992.

EPA SLN No. LA 92 0005. Ciba-Geigy Corp. Registration is for Primisulfuron-Methyl to be used on field corn to control weeds. April 30, 1992.

EPA SLN No. LA 92 0006. Griffin Corp. Registration is for Mancozeb to be used on cotton to control seedling blight. April 30, 1992.

Mississippi

EPA SLN No. MS 92 0001. E. I. Du Pont DeNemours & Co., Inc. Registration is for Cyanazine to be used on cotton to control grass and broadleaf weeds. March 16, 1992.

EPA SLN No. MS 92 0002. Rhone-Poulenc AG Co. Registration is for 2,4-D to be used on rice to control weeds. April 6, 1992.

EPA SLN No. MS 92 0003. Rhone-Poulenc AG Co. Registration is for 2,4-D to be used on rice to control weeds. April 6, 1992.

EPA SLN No. MS 92 0004. Ciba-Geigy Corp. Registration is for Primisulfuron-Methyl to be used on field corn to control weeds. April 9, 1992.

EPA SLN No. MS 92 0005. E. I. Du Pont DeNemours & Co., Inc. Registration is for Nicosulfuron to be used on popcorn and field corn to control weeds. April 14, 1992.

EPA SLN No. MS 92 0006. Valent U.S.A. Corp. Registration is for Thiobencarb to be used on rice to control annual and aquatic weeds. April 22, 1992.

Nebraska

EPA SLN No. NE 92 0003. E. I. Du Pont DeNemours & Co., Inc. Registration is for Nicosulfuron to be used field corn and popcorn to control grasses and weeds. April 6, 1992.

Nevada

EPA SLN No. NV 92 0002. Liphatech, Inc. Registration is for Chlorophacinone to be used on cabbage bait to control ground squirrels. March 24, 1992.

EPA SLN No. NV 92 0004. American Cyanamid Co. Registration is for Pendimethalin to be used on alfalfa to control weeds. April 22, 1992.

New Hampshire

EPA SLN No. NH 92 0001. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on squash, melons, and eggplants to control weeds. March 5, 1992.

New Jersey

EPA SLN No. NJ 92 0002. FMC Corp. Registration is for Carbofuran to be used on strawberries to control root weevils. March 13, 1992.

EPA SLN No. NJ 92 0003. Old Bridge Chemical Co. Registration is for Copper Sulfate Penta to be used on lakes, ponds, and reservoirs to control algae. April 27, 1992.

EPA SLN No. NJ 92 0004. FMC Corp. Registration is for Carbofuran to be used on alfalfa to control potato leafhopper. April 16, 1992.

North Carolina

EPA SLN No. NC 92 0003. FMC Corp. Registration is for Clomazone to be used on burley tobacco to control broadleaf weeds. March 4, 1992.

EPA SLN No. NC 92 0004. Ciba-Geigy Corp. Registration is for Metolachlor to be used on cotton to control weeds. April 15, 1992.

EPA SLN No. NC 92 0005. Ciba-Geigy Corp. Registration is for Metolachlor to be used on cotton to control yellow nutsedge weed. April 15, 1992.

EPA SLN No. NC 92 0006. E. I. Du Pont DeNemours & Co., Inc. Registration is for Nicosulfuron to be used on field corn and popcorn to control grass. April 15, 1992.

Oklahoma

EPA SLN No. OK 92 0004. E. I. Du Pont DeNemours & Co., Inc. Registration is for Nicosulfuron to be used on field corn and popcorn to control weeds. March 13, 1992.

EPA SLN No. OK 92 0005. Sostram Corp. Registration is for Atrazine to be used on CRP range grasses to control weeds. March 13, 1992.

EPA SLN No. OK 92 0006. Sostram Corp. Registration is for Atrazine to be used on CRP range grasses to control weeds. March 13, 1992.

EPA SLN No. OK 92 0007. Ciba-Geigy Corp. Registration is for Atrazine to be used on bermudagrass to control annual weeds. March 19, 1992.

EPA SLN No. OK 92 0008. Ciba-Geigy Corp. Registration is for Atrazine to be used on bermudagrass to control weeds. March 25, 1992.

EPA SLN No. OK 92 0009. E. I. Du Pont DeNemours & Co., Inc. Registration is for Terbacil to be used on alfalfa to control pigweed and crabgrass. March 19, 1992.

Pennsylvania

EPA SLN No. PA 92 0001. FMC Corp. Registration is for Clomazone to be used on tobacco to control broadleaf weeds and grass. April 14, 1992.

Puerto Rico

EPA SLN No. PR 92 0001. Miles, Inc. Registration is for Methamidophos to be used on tomato-fresh market to control insects. April 15, 1992.

South Carolina

EPA SLN No. SC 92 0001. ICI Americas, Inc. Registration is for Captan to be used on strawberries to control botrytis and antracnose. March 2, 1992.

EPA SLN No. SC 92 0003. FMC Corp. Registration is for Clomazone to be used on tobacco to control purslane and foxtail. April 2, 1992.

South Dakota

EPA SLN No. SD 92 0002. State Dept. of Agriculture, Wildlife Services Fund. Registration is for Zinc Phosphide to be used in prairie dog burrows to control prairie dogs. April 9, 1992.

Texas

EPA SLN No. TX 92 0003. Gustafson, Inc. Registration is for Thiophanate Methyl to be used on peanut seeds to control sclerotinia blight. March 5, 1992.

EPA SLN No. TX 92 0004. Ciba-Geigy Corp. Registration is for Atrazine to be used on grain sorghum to control broadleaf weeds. March 2, 1992.

EPA SLN No. TX 92 0005. Ciba-Geigy Corp. Registration is for Atrazine to be used on grain sorghum to control broadleaf weeds. March 2, 1992.

EPA SLN No. TX 92 0006. Ciba-Geigy Corp. Registration is for Atrazine to be used on grain sorghum to control broadleaf weeds. March 2, 1992.

EPA SLN No. TX 92 0007. Ciba-Geigy Corp. Registration is for Primisulfuron-Methyl to be used on field corn to control weeds. March 18, 1992.

EPA SLN No. TX 92 0008. E. I. Du Pont DeNemours & Co., Inc. Registration is for Nicosulfuron to be used field corn, popcorn, and corn grown for seed to control annual grasses. March 18, 1992.

EPA SLN No. TX 92 0009. Hoechst Celanese Corp. Registration is for Diclofop-Methyl to be used on bermudagrass turf to control goosegrass. April 24, 1992.

Utah

EPA SLN No. UT 92 0001. Nor-Am Chemical Co. Registration is for Formetanate Hydrochloride to be used on greenhouse plants to control western flower thrip. March 23, 1992.

EPA SLN No. UT 92 0002. Gowan Co. Registration is for Dimethoate to be used on sweet cherries and tart cherry to control fruit flies. March 25, 1992.

Virginia

EPA SLN No. VA 92 0003. Valent U.S.A. Corp. Registration is for Acephate to be used in-furrow on peanuts to control thrips. April 10 1992.

EPA SLN No. VA 92 0004. Ciba-Geigy Corp. Registration is for Metolachlor to be used on cotton to control weeds. April 10, 1992.

EPA SLN No. VA 92 0005. Ciba-Geigy Corp. Registration is for Metolachlor to be used on cotton to control weeds. April 14, 1992.

Washington

EPA SLN No. WA 89 0033. Miles, Inc. Registration is for Metasystox-R to be used on nursery stock to control aphids and leafminer. April 30, 1992.

EPA SLN No. WA 92 0001. Miles, Inc. Registration is for Metasystox-R S.C. to be used on apples to control aphids. April 22, 1992.

EPA SLN No. WA 92 0005. Riverside/Terra Corp. Registration is for Phorate to be used on potatoes to control wireworms and psyllids. March 16, 1992.

EPA SLN No. WA 92 0006. Uniroyal Chemical Co., Inc. Registration is for Triflumizole to be used on woody ornamentals to control cylindrocladium. April 22, 1992.

EPA SLN No. WA 92 0007. ICI Americas, Inc. Registration is for Napropamide to be used on iris and daffodil bulb to control annual weeds. March 31, 1992.

EPA SLN No. WA 92 0008. Novo Nordisk A/S. Registration is for Foray 48B to be used on vegetation to control gypsy moth. April 7, 1992.

EPA SLN No. WA 92 0009. Platte Chemical Co. Registration is for Ethalfluralin to be used on summer and winter squash to control weeds. April 21, 1992.

EPA SLN No. WA 92 0010. Miles, Inc. Registration is for Metasystox-R (ODM) to be used on apples to control aphids. April 22, 1992.

Wisconsin

EPA SLN No. WI 92 0003. Southern Mill Creek Products. Registration is for Miocarb to be used in ginseng gardens to control snails and slugs. March 10, 1992.

EPA SLN No. WI 92 0004. Haco, Inc. Registration is for Mesurol to be used in ginseng gardens to control snails and slugs. March 10, 1992.

EPA SLN No. WI 92 0005. Platte Chemical Co. Registration is for Diazinon to be used on cranberries to control cranberry girdler. April 9, 1992.

Wyoming

EPA SLN No. WY 92 0003. Haco, Inc. Registration is for Zinc Phosphide to be used on rangeland and timber to control prairie dogs and ground squirrels. April 24, 1992.

Disapprovals

The following State registrations of pesticides inder section 24(c) of FIFRA were disapproved by the Administrator:

Oklahoma

EPA SLN No. OK 92 0003. Ciba-Geigy Corp. Registration is for Primisulfuron Methyl to be used on field corn to control weeds. Disapproved April 27, 1992.

Texas

EPA SLN No. TX 92 0003. Gustafson, Inc. Registration is for Thiophanate Methyl to be used on peanut seeds to control sclerotinia blight. Disapproved May 21, 1992

Authority: Sec. 24, as amended, 92 Stat. 835 (7 U.S.C. 136).

Dated: July 22, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–18577 Filed 8–4–92; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4192–3]

Program To Identify Suppliers of Recycled Halons

The U.S. Environmental Protection Agency is seeking recommendations on how to match potential suppliers of recycled halon to customers currently without alternatives and is seeking immediate sources of recycled Halon 1301 for such uses.

On February 21, 1992, the U.S. EPA announced that it would cooperate with industry, environmental groups, and an academic institution to allow Alaska North Slope oil and gas companies to shift to the use of recycled halons for explosion and fire protection. Halons, fire extinguishing agents that deplete the stratospheric ozone layer, are scheduled to be phased out of production by December 1995. The companies (ARCO Alaska Inc. and BP Exploration (Alaska) Inc.) will endeavor to procure recycled halon 1301 in preference to newly produced halon. This action, supported by EPA, the Center for Global Change at the University of Maryland, the Natural Resources Defense Council, and Friends of the Earth-USA, will help evaluate the feasibility of accelerating the phaseout of new halon production. More recently, the Boeing Company has also agreed to join in this program to shift to the use of recycled halon.

Halon is used for fire protection under extreme operating conditions where no alternatives are currently available. The use of recycled halons by these companies will be helped by the establishment of a nationwide halon banking program which removes halon from service in non-essential applications, creates a supply of recycled halon allowing an earlier halt to production, and stores any surplus halon until it is either used in an essential use or is safely destroyed. To facilitate these activities, EPA by the end of this year will develop a clearinghouse and procedures to encourage non-essential users of halon to turn in their stocks for recycling and will work to identify brokeraging and halon banking strategies.

Potential suppliers and other sources of recycled halon 1301 are invited to contact EPA and provide information on the quantity, delivery, and other terms for the recycled material. The available halon 1301 must be suitable for purification to practical standards of quantity. The information should be submitted as soon as possible, but preferably no later than September 30, 1992, to Bella Maranion, Technology Transfer & Industry Programs, Global Change Division (6202J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. For further information contact Bella Maranion at (202) 233–9138.

Dated: July 22, 1992.

Eileen B. Claussen,

Director, Office of Atmospheric and Indoor Air Programs.

[FR Doc. 92–18570 Filed 8–4–92; 8:45 am]

BILLING CODE 6560–50–M

[EPA–530–R–92–010; FRL–4192–2]

Solid Waste Disposal; Toxicity Reduction; Lead and Cadmium Substitutes

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of report on potential substitutes for lead and cadmium in products in municipal solid waste.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is today announcing the availability of a report entitled "Preliminary Use and Substitutes Analysis for Lead and Cadmium in Products in Municipal Solid Waste." This report identifies lead- and cadmium-containing products that are disposed of in municipal solid waste and provides information regarding potential substitutes for the lead- and/or cadmium-containing components of these products. The EPA intends to use this document to further voluntary efforts to reduce toxics in municipal solid waste. The identification of technically feasible substitutes for lead and cadmium in products found in municipal solid waste can be an important preliminary step towards pollution prevention. The analysis of substitutes in this report does not quantitatively assess economic factors that affect substitution or the effect of potential substitutes on end products.

ADDRESSES: The report is available for review at all EPA libraries and in the EPA RCRA docket, which is located in room 2427 of the U.S. EPA Headquarters. The docket number for the report is F–92–SCLA–FFFFF. The docket is open for viewing from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays; telephone (202) 260–9327. The Public may copy a

maximum of 100 pages of material from any one regulatory docket at no cost. Additional copies cost 15 cents per page.

The document is also available through the National Technical Information Service (NTIS), 5258 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487–4650. The complete report is available by Order No. PB–92–162–551.

FOR FURTHER INFORMATION CONTACT: For general information call the EPA RCRA Hotline at (703) 920–9810 or toll free at (800) 424–9346 outside the Washington, DC metropolitan area. For technical information on the report, contact Ohad Jehassi, Office of Pollution Prevention and Toxics (202) 260–6911, TS–779, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: In January 1989, EPA issued a report entitled "Characterization of Products Containing Lead and Cadmium in Municipal Solid Waste in the United States, 1970–2000" (EPA/530–SW–89–015, NTIS Order No. PB89–151039; Notice of Availability in FR 25166, Vol. 54, No. 112, June 13, 1989). The report characterized the products contributing 1 percent or more of the lead and cadmium disposed of in municipal solid waste over the time period 1970 to 1986, with projections to the year 2000. As a follow-up to this characterization of sources of lead and cadmium in the waste stream, EPA commissioned a study to identify and characterize technologically feasible substitutes for these sources. The availability of the study of possible substitutes is being announced today.

These studies on lead and cadmium are a part of EPA's overall effort to promote toxics reduction in the municipal solid waste stream. EPA has identified source reduction as the preferred management option in its hierarchy of waste management methods. Source reduction is an approach to reduce the toxicity and/or amount of materials or products before they enter the waste stream. Recycling (including composting) is considered the next best management option, followed by combustion and/or landfilling.

To inform future source reduction efforts, EPA requests information on issues or activities related to the material in this report (e.g., the efficacy of substitutes for particular applications). The Agency also seeks information on specific case studies which address viable substitutes for lead and cadmium found in consumer products. Send any relevant information to the contact listed above. The Agency is interested in initiating a dialogue with interested organizations, including any commentors on this report, in an effort to promote voluntary source reduction efforts and to gather additional information.

Dated: July 28, 1992.

Mark Greenwood,

Director, Office of Toxic Substances.

Sylvia K. Lowrance,

Director, Office of Solid Waste.

[FR Doc. 92–18571 Filed 8–4–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4191–7]

Proposed Administrative Settlement Pursuant to Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: U.S. Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: The U.S. Environmental Protection Agency is proposing to enter into an administrative settlement agreement under section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622. The proposed agreement would provide for the release of the Superfund Lien covering the J.K. Drum Site in the City of New London, Waupaca County, Wisconsin.

DATES: Comments must be provided on or before September 4, 1992.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, IL 60604, and should refer to: J.K. Drum Site, City of New London, Waupaca County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Terry Branigan (CS–3T), U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–4737.

SUPPLEMENTARY INFORMATION:

Notice of Settlement

In accordance with section 122(i)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1984, as amended (CERCLA), notice is hereby given of a proposed administrative settlement agreement concerning the J.K. Drum Site in the City of New London, Waupaca County, Wisconsin.

In response to the release or threat of release of hazardous substances, U.S. EPA undertook a removal action at the site pursuant to section 104 of CERCLA, 42 U.S.C. 9604. U.S. EPA filed a Notice of Federal Lien in accordance with section 107(1)(3) of CERCLA with the Register's Office of Waupaca County, WI to perfect the lien created by section 107(1)(1) of CERCLA in favor of the United States for the response costs and damages for which the owners of the property are liable pursuant to section 107(a) of CERCLA.

The proposed agreement was issued to the following parties ("settlors"): River Properties Partnership, Kenneth Dern, Bart Kellnhauser, Leslie Green, Stanley F. Staples, Alvin T. Stolen.

The proposed agreement requires the Agency, in exchange for recouping a portion of response costs incurred by U.S. EPA during its response action, to release the Superfund Lien on any portion of the site property that is sold to a third party. Payment to U.S. EPA equals an amount which is stated as a percentage of the proceeds for the sale.

In releasing the lien, U.S. EPA makes no warranties or representations to any party regarding environmental contamination at the site. In addition, the agreement states that it is not to be construed as a release or a covenant not to sue for any claim or cause of action which the U.S. EPA or the United States may have against any of the settlors. U.S. EPA specifically reserves all rights against settlors. The agreement does not compromise or settle any claim within the meaning of section 122(h)(1).

The U.S. Environmental Protection Agency will receive written comments relating to this agreement for 30 days from the date of publication of this notice.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the U.S. Environmental Protection Agency's Region V Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601–9675.

Dated: July 17, 1992.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 92–18567 Filed 8–4–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

Dated: July 28, 1992.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street NW., Suite 640, Washington, DC 20036, (202) 452-1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0228.

Title: Section 80.59, Compulsory ship stations.

Action: Extension of a currently approved collection.

Respondents: Individuals or households, state or local governments, non-profit institutions and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 200 responses, 2 hours average burden per response; 400 hours total annual burden.

Needs and Uses: The requirement contained in Section 80.59 is necessary to implement the provisions of section 362(b) of the Communications Act of 1934, as amended, which permits the Commission to waive the required annual inspection of certain oceangoing ships for up to 30 days beyond the expiration date of a vessel's radio safety certificate, upon a finding that the public interest would be served. The information is used by the Engineer in Charge of FCC Field Offices to determine the eligibility of a vessel for a waiver of the required annual radio station inspection. If the collection were not conducted, the Commission would be unable to grant eligible vessels waivers and such ships would be unable to sail until an inspection was performed. This, in turn, would require an increased expenditure for agency travel funds and/or additional personnel, as well as additional operating costs for vessels required to remain in port until an inspection could be completed.

OMB Number: 3060-0265.

Title: Section 80.868, Card of instructions.

Action: Extension of a currently approved collection.

Respondents: Individuals or households, state or local governments, non-profit institutions and businesses or other for-profit (including small businesses).

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 3,000 recordkeepers; 0.1 hours average burden per recordkeeper, 300 hours total annual burden.

Needs and Uses: The recordkeeping requirement contained in Section 80.868 is necessary to insure that radiotelephone distress procedures are readily available to the radio operator on board certain vessels (300-1600 gross tons) required by the Communications Act or the International Convention for Safety of Life at Sea to be equipped with a radiotelephone station. The information is used by a vessel radio operator during an emergency situation, and is designed to assist the radio operator to utilize proper distress procedures during a time when he or she may be subject to considerable stress or confusion.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-18529 Filed 8-4-92; 8:45 am]

BILLING CODE 6712-01-M

[DA 92-979]

Meeting

Dated: July 27, 1992.

Advisory Committee on Advanced Television Service Implementation Subcommittee Meeting

August 25, 1992, 10:30 a.m., Commission Meeting Room (room 856), 1919 M Street, NW., Washington, DC.

The agenda for the meeting will consist of:

1. Introduction.
2. Minutes of Last Meeting.
3. Report of Working Party 1.
4. Report of Working Party 2 Transition Scenarios.
5. Scheduling of Final Report Submissions.
6. General Discussion.
7. Other Business.
8. Date and Location of Next Meeting.
9. Adjournment.

All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Implementation Subcommittee Chairs.

Any questions regarding this meeting should be directed to George Vradenburg III at (310) 203-1334, Dr. James J. Tietjen at (609) 734-2237, or Gina Harrison at (202) 632-7792.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-18528 Filed 8-4-92; 8:45 am]

BILLING CODE 6712-01-M

[DA 92-1010]

Comments Invited on San Antonio Area Public Safety Plan

Dated: July 28, 1992.

The Commission has received the public safety radio communications plan for the San Antonio area (Region 53).

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87-112, Region 53 consists of the following counties: Val Verde, Edwards, Kerr, Gillespie, Real, Bandera, Kendall, Kinney, Uvalde, Medina, Bexar, Comal, Guadalupe, Gonzales, Lavaca, De Witt, Karnes, Wilson, Atascosa, Frio, Zavala, Maverick, Dimmit, La Salle, McMullen, Live Oak, Bee, Goliad, Victoria, Jackson, Calhoun, Refugio, Aransas, San Patricio, Nueces, Jim Wells, Duval, Webb, Kleberg, Kenedy, Brooks, Jim Hogg, Zapata, Starr, Hidalgo, Willacy and Cameron. (General Docket No. 87-112, 3 FCC Rcd 2113 (1988)).

In accordance with the Commission's Report and Order in General Docket No. 87-112 implementing the Public Safety National Plan, interested parties may file comments on or before September 4, 1992 and reply comments on or before September 21, 1992. (See Report and Order, General Docket No. 87-112, 3 FCC Rcd 905 (1987), at paragraph 54.)

Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554 and should clearly identify them as submissions to PR Docket 92-169 San Antonio Area—Public Safety Region 53.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632-6497 or Ray LaForge, Office of Engineering and Technology, (202) 653-8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-18527 Filed 8-4-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-948-DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota (FEMA–948–DR), dated July 2, 1992, and related determinations.

EFFECTIVE DATE: July 27, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of South Dakota, dated July 2, 1992, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1992:

The countries of Kingsbury, Miner, and Moody for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92–18526 Filed 8–4–92; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Guaranty Development Company, et al.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 28, 1992.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Guaranty Development Company, Livingston, Montana; to acquire 100 percent of the voting shares of InterWest Bank of Bozeman, Bozeman, Montana, through InterWest Acquisition, a state-chartered non-member phantom bank.

Board of Governors of the Federal Reserve System, July 30, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–18508 Filed 8–4–92; 8:45 am]

BILLING CODE 6210–01–F

Mellon Bank Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 28, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Mellon Bank Corporation, Pittsburgh, Pennsylvania; and Credit Commercial de France, S.A., Paris, France; to engage *de novo* through their subsidiary, CCF-Mellon Partners, a Pennsylvania general partnership, Pittsburgh, Pennsylvania, in acting as investment or financial adviser pursuant to § 225.25(b)(4) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. First Sleepy Eye Bancorporation, Inc., Sioux Falls, South Dakota; to engage *de novo*, in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 30, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–18507 Filed 8–4–92; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Federal Supply Service (FBP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection, 3090–0003, Sale of Government Property. This Information Collection provides terms and conditions under which Government owned personal property is offered for sale, and provides the format whereby bids are submitted.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, room 3235, NEOB, Washington, DC 20503, and to

Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

ANNUAL REPORTING BURDEN:
Respondents: 85,000; annual responses: 1; average hours per response: .33; burden hours: 28,050.

FOR FURTHER INFORMATION CONTACT: Ed Hochard, (703) 557–0814. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501–2691, or by faxing your request to (202) 501–2727.

Dated: July 24, 1992.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 92–18498 Filed 8–4–92; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement Number 226]

Research Program for Exposure Characterization

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the availability of fiscal year (FY) 1992 funds for a cooperative agreement program to develop a research program for exposure characterization for the purpose of evaluating exposures to widely varying contaminant concentrations, exposure frequencies, and exposure durations, with widely varying emission characteristic and decay rates that could be found at Department of Energy (DOE) Sites.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-lead national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see the section Where To Obtain Additional Information.)

Authority

This program is authorized by Sections 104(i) (5), (9) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604(i) (5), (9) and (15)].

Eligibility

Eligible applicants are states and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, the Northern Mariana Islands, American Samoa, and political subdivisions thereof, including federally recognized Indian tribal governments. State organizations, including state universities, state colleges, and state research institutions, must affirmatively establish that they meet their respective state's legislative definition of a state entity or political subdivision to be considered an eligible applicant.

Availability of Funds

Approximately $400,000 is available in FY 1992 to fund 2 awards. It is expected that the average award will be $200,000. It is expected that the awards will begin on or about September 30, 1992, and are usually made for 12-month budget periods with a proposed project period of up to 3 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies, and services. Funds for contractual services may be requested. However, the grantee, as the direct and primary recipient of PHS cooperative agreement funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. The acquisition of equipment may be authorized upon acceptance of a jurisdiction identifying: (1) Need for the equipment, (2) intended use of the equipment, and (3) the advantages/disadvantages of leasing versus purchase of the equipment.

Purpose

The purpose of these awards is to support the agency's toxicological research program and to augment the agency's preparation of public health assessments. The Research Program for Exposure Characterization will develop methods which will allow much more accurate and meaningful assessment of exposure to hazardous substances commonly found at DOE facilities and National Priorities List (NPL) sites. In addition, this research could serve as a mechanism to underwrite graduate and post-graduate research projects, and thus foster the development of professionals trained in this much needed area of research.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A., below, and ATSDR will be responsible for conducting activities under B., below:

A. Recipient Activities

1. Develop and implement research methods to characterize chemical/radionuclide exposures typically associated with DOE sites.

2. Identify and pursue emerging technical advances in the assessment of exposure to hazardous chemicals/radionuclides typically associated with DOE facilities, to encompass both alteration of the genome and alterations in genome expression. These advances should include assessment of early biological effects (e.g., recorder effects such as somatic mutation) as a means to bridge the gap between internalized dose (exposure) and subtle alterations in structure/function (disease).

3. Develop these novel exposure characterization methods to the point where they can be adapted to hazard characterization and hazard communication efforts.

4. Communicate advances in the above areas to all relevant communities including other Federal agencies, state and local governments and the public.

B. ATSDR Activities

1. Assist in the development of plausible exposure scenarios and criteria for the selection and use of models and define appropriate assumptions.

2. Collaborate with recipient organizations to identify and pursue emerging disciplines related to advances in assessment of exposure to hazardous chemicals/radionuclides typically associated with DOE facilities.

3. Collaborate with recipient organizations to extend the appropriate use of novel exposure characterization protocols to hazard characterization and communication efforts.

4. Assist in communicating advances in the above areas to all relevant communities including other Federal agencies, state and local governments, and the public.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Scientific and Technical Review Criteria of New Application

a. *Proposed Program* (50%): The extent to which the applicant's proposal addresses (1) the scientific merit of the proposed project, including the originality and feasibility of the approach, adequacy, and rationale of the design; (2) the technical merit of the proposed project, including the degree to which the project can be expected to yield or demonstrate results that meet the program objective as described in the "PURPOSE" section of this announcement; and (3) the proposed project schedule, including clearly established and obtainable project objectives for which progress toward attainment can and will be measured.

b. *Program Personnel* (30%): The extent to which the proposal has described (1) the qualifications, experience, and commitment of the principal investigator, and his/her ability to devote adequate time and effort to provide effective leadership; and (2) the competence of associate investigators to accomplish the proposed study, their commitment, and the time they will devote to the project.

c. *Applicant Capability* (20%): Description of the adequacy and commitment of institutional resources to administer the program and the adequacy of the facilities as they impact on performance of the proposed study.

d. *Program budget* (NOT SCORED): The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

2. Continuation Awards Within the Project Period Will Be Made on the Basis of the Following Criteria

a. Satisfactory progress has been made in meeting project objectives;

b. Objectives for the new budget period are realistic, specific, and measurable;

c. Proposed changes in described long-term objectives, methods of operation, need for cooperative agreement support, and/or evaluation procedures will lead to achievement of project objectives; and

d. The budget request is clearly justified and consistent with the intended use of cooperative agreement funds.

Other Requirements

A. *Technical Review:* All protocols, studies, and results of research that ATSDR carries out or funds in whole or in part will be reviewed to meet the requirements of CERCLA Section 104(i)(13).

B. *Protection of Human Subjects:* If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to an initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

C. *Cost Recovery:* The recipient would agree to maintain an accounting system that will keep an accurate, complete, and current accounting of all financial transactions on a site-specific basis, i.e., individual time, travel, and associated cost including indirect cost, as appropriate for the site. The recipient will retain the documents and records to support these financial transactions for a minimum of ten (10) years after submission of a final Financial Status Report (FSR), unless there is a litigation, claim, negotiation, audit or other action involving the specific site, then the records will be maintained until resolution of all issues on the specific site.

D. *Animal Welfare:* If the proposal project involves research on animal subjects, the applicant must comply with the "PHS Policy Statement on Humane Care on Use of Laboratory Animals by Awardee Institutions." An applicant organization proposing to use vertebrate animals in PHS-supported activities must file an Animal Welfare Assurance with the Office for the Protection from Research Risks at the National Institutes of Health.

Executive Order 12372 Review

Applications are not subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161.

Application Submission Deadline

The original and two copies of the application PHS form 5161–1 must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, on or before September 1, 1992. (By formal agreement, the CDC Procurement and Grants Office will act on behalf of and for ATSDR on this matter.)

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the objective review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 226. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, (Telephone: (404) 842–6797). Programmatic Technical Assistance may be obtained from Dennis E. Jones, Senior Toxicologist, Office of the Associate Administrator for Science, Agency for Toxic Substances and Disease Registry, Mailstop E–28, 1600 Clifton Road NE., Atlanta, Georgia 30333, (Telephone: (404) 639–0708).

Please Refer to Announcement Number 226 When Requesting Information and Submitting an Application

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office,

Washington, DC 20402–9325, (Telephone: (202) 783–3238).

Dated: July 28, 1992.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92–18512 Filed 8–4–92; 8:45 am]

BILLING CODE 4160–70–M

Health Resources and Services and Administration

Program Announcement, Funding Priorities, Proposed Funding Preference and Grant Orientation Conferences for the Health Careers Opportunity Program

The Health Resources and Services Administration (HRSA) announces that application for fiscal year (FY) 1993 Health Careers Opportunity Program (HCOP) grants are now being accepted under the authority of section 787 of the Public Health Service Act, as amended by Public Law 100–607.

Comments are invited on the proposed funding preference stated below.

Section 787 authorizes the Secretary to make grants to and enter into contracts with schools of allopathic medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic and podiatric medicine and public and nonprofit private schools which offer graduate programs in clinical psychology and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from such schools. The assistance authorized by the section may be used to: Identify, recruit, and select individuals from disadvantaged backgrounds for education and training in a health profession; facilitate the entry and retention of such individuals in health and allied health professions schools; and to provide counseling and advice on financial aid to assist such individuals to complete successfully their education at such schools.

This program announcement is subject to the reauthorization of this legislative authority and to the appropriation of funds.

The Administration's FY 1993 budget request for this program is $30.2 million. Of this amount, $9.9 million will be used to continue support of 70 multi-year projects funded in previous years. Approximately 137 competitive awards will be made at an average of $147,000 each. There is, however, no assurance of HCOP funding for FY 1993 at the level of the budget request or any other level.

Applicants are advised that this application announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for an even distribution of funds throughout the fiscal year.

Previous Funding Experience

Previous funding experience is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In FY 1991, HRSA reviewed 205 applications for HCOP Grants. Of those applications, 82 percent were approved and 18 percent were not recommended for further consideration. Forty projects; or 23 percent of the approved applications, were funded. In FY 1990, HRSA reviewed 280 applications for HCOP Grants. Of those applications, 87 percent were approved and 13 percent were not recommended for further consideration. Ninety-seven projects; or 40 percent of the approved applications, were funded.

To receive support, applicants must meet the requirements of the program regulations which are located at 42 CFR part 57, subpart S. The period of Federal support will not exceed 3 years.

The statute requires that, of the amounts appropriated for any fiscal year, 20 percent must be obligated for stipends to disadvantaged individuals of exceptional financial need who are students at schools of allopathic medicine, osteopathic medicine, or dentistry, 10 percent must be obligated to community-based programs and 70 percent must be obligated for grants or contracts to institutions of higher education. Not more than five percent of such funds may be obligated for grants and contracts having the primary purpose of informing individuals about the existence and general nature of health careers.

National Health Objectives For The Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Health Careers Opportunity Program is related to the priority area of Education and Community-Based programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between its U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

(a) The degree to which the proposed project adequately provides for the requirements in the program regulations;

(b) The number and types of individuals who can be expected to benefit from the project;

(c) The administrative and management ability of the applicant to carry out the proposed project in a cost effective manner;

(d) The adequacy of the staff and faculty;

(e) The soundness of the budget; and

(f) The potential of the project to continue without further support under this program.

In addition, the following mechanisms will be applied in determining the funding of applications:

1. Funding priorities—favorable adjustment of aggregate review scores when applications meet specified objective criteria.

2. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.

The following funding priorities will be used in the distribution of grant awards in FY 1993.

Statutory Funding Priorities

Public Law 100–607 requires the Secretary to give priority in funding to the following schools:

1. A school which previously received an HCOP grant and increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in the base year 1987 by the end of 3 years from the date of the award of the HCOP grant; and

2. A school which had not previously received an HCOP grant that increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in

the base year 1987, over any period of time.

Established Funding Priority

The following funding priority was established in fiscal year 1990 after public comment and is being continued in FY 1993, with the exception that wording related to alternative means of documenting enrollment in terms of increases and retention rates for disadvantaged students have been deleted. Progress in these areas is considered as a part of the merit review process for this program and applicants will be informed of relevant benchmarks in application materials.

A funding priority will be given to HCOP applications from health professions schools and from allied health training centers for baccalaureate or higher level programs in physical therapy, physician assisting, respiratory therapy, medical technology or occupational therapy that have a disadvantaged student enrollment of 35 percent or more.

Similarly, a previously established funding priority for educational institutions that can document that at least 60 percent of the disadvantaged prehealth professions students from their school who applied over the past 3 years to health or allied health professions schools were enrolled in such schools has also been deleted. Progress in this area will be requested and considered as part of the merit review of applications.

Proposed Funding Preference for FY 1993

The following funding preference is proposed for FY 1993:

A funding preference will be given to competing continuation applications for postbaccalaureate programs funded under the fiscal year 1990 HCOP Funding Preferences (as defined in the **Federal Register** notice of March 27, 1990, 55 FR 11264) which score in the upper 50th percentile of all applications, and which can evidence the following:

1. Disadvantaged students were recruited into the postbaccalaureate program at a level at least equal to the number of students originally projected in FY 1990; and

2. The cohort of first year disadvantaged students entering the health or allied health professions school in September 1992 exceeds the number of disadvantaged students enrolled in the first year class in September 1991 by a number equal to at least 50 percent of the postbaccalauareate participants projected for enrollment in 1992.

Based on progress reports from the first cycle and enrollees from the cohort in first year classes, indications are that per year, as many as 90 previously rejected applicants will gain admission to health and allied health professions schools. The postbaccalaureate programs have the potential for significantly increasing the enrollment of disadvantaged students in the health professions. This funding preference is intended to direct assistance to quality postbaccalaureate programs that have documented sustained or increased accomplishments under this program.

It is not required that applicants request consideration for a funding factor. Applicants which do not request consideration of funding factors will be reviewed and given full consideration for funding.

In addition, consideration will be given to an equitable geographic distribution of projects, and the assurance that a combination of all funded projects represents a reasonable proportion of the health professions specified in the legislation.

Interested persons are invited to comment on the proposed funding preference. All comments received on or before September 4, 1992, will be considered before the final funding preference is established. No funds will be allocated or final selections made until a final notice is published stating whether the final funding preference will be applied.

Written comments should be addressed to: Clay E. Simpson, Jr., Ph.D., Director, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Disadvantaged Assistance, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

The applicant must indicate on the upper right-hand corner of the face page of the application the funding priority and/or preference for which the applicant wishes consideration. However, the final determination of the category of funding priority or preference will be based on a staff assessment of the contents of the proposal. An applicant may only be given credit for one funding priority.

Definitions

As used in this notice:

"Community-based Program" means a program with organizational headquarters located in and which primarily serves: A Metropolitan Statistical Area, as designated by the Office of Management and Budget; a Bureau of Economic Analysis, U.S. Department of Commerce designated nonmetropolitan economic area or a county; or Indian tribe(s) as defined in 42 CFR 36.102(c), i.e., an Indian tribe, band, nation, rancheria, Pueblo, colony or community, including an Alaska Native Village or regional or village corporation.

"Health professions schools" means schools of allopathic medicine, dentistry, osteopathic medicine, pharmacy, optometry, podiatric medicine, veterinary medicine, public health, chiropractic, or graduate programs in clinical psychology and health administration, as defined in Section 701(4) of the Public Health Service Act and as accredited in Section 701(5) of the Act.

"Individual from a disadvantaged background" means an individual who: (a) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills and abilities required to enroll in and graduate from a health professions school or from a program providing education or training in an allied health profession or; (b) comes from a family with an annual income below a level based on low-income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low-income family for purposes of these Health Careers Opportunity Program grants for fiscal year 1993:

Size of parents' family [1]	Income level [2]
1	$9,100
2	$11,800
3	$14,100
4	$18,000
5	$21,300
6 or more	$23,900

[1] Includes only dependents listed on Federal income tax forms.
[2] Adjusted gross income for calendar year 1991, rounded to $100.

"Training center for allied health professions" means a junior college, or college, or university, as defined in section 795 of the Public Health Service Act, which:

(a) Provides educational programs leading to an associate, baccalaureate, or higher degree needed to practice as one of the following:

Master's Degree: Biostatistician, Nutritionist, Social Worker, Speech Pathologist/Audiologist

Bachelor's Degree: Biomedical Engineer, Blood Bank Technologist, Community Health Educator, Corrective Therapist, Cytogenetic Counselor, Dental Hygienist, Dietitian, Health Physicist, Health Services Administrator, Medical Illustrator, Medical Records Administrator, Medical Technologist, Microbiology Technologist, Occupational Therapist, Physical Therapist, Primary Care Physician Assistant, Recreational Therapist, Rehabilitation Counselor, Sanitarian (Environmental Health).

Associate Degree: Clinical Dietetic Technician, Cytotechnologist, Dental Assistant, Dental Hygienist, Dental Laboratory Technician, EKG/EEG Technologist, Medical Assistant, Medical Laboratory Technician, Medical Records Technician, Occupational Therapy Assistant, Ophthalmic Medical Assistant, Ophthalmic Technologist, Optometric Technician, Orthopedic Technologist, Physical Therapy Assistant, Radiologic Technologist, Respiratory Therapy Technologist, Sanitarian Technician, Surgical Technologist.

(b) Provides training for no fewer than 20 persons in the substantive health portion, including clinical experience as required for employment, in three or more of the disciplines listed in paragraph (a) of this definition and has a minimum of six full-time students in that portion of each curriculum by October 15 of the fiscal year of application.

(c) Has a teaching hospital as part of the grantee institution or is affiliated with a teaching hospital by means of a formal written agreement. The term "teaching hospital" includes other settings which provide clinical or other health services if they fulfill the requirement for clinical experience specified in an allied health curriculum.

Additional Information

Requests for grant application materials and questions regarding grants policy and business management issues should be directed to: Ms. Diane Murray, Grants Management Specialist (D18), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857.

Completed applications should be returned to the Grants Management Office at the above address.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

The application deadline date is November 9, 1992. Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

Grant Orientation Conferences

Grant applications and program information for the Health Careers Opportunity Program will also be provided through three program technical assistance conferences. The conferences, scheduled for September 1992, are for the benefit of potential applicants and current grantees.

The three conferences will be held as follows:

September 10–11, 1992—Columbia Inn, HCOP Technical Assistance Mtg I, Wincopin Circle, Columbia, Maryland, (301) 730–3900.

September 14–15, 1992—Columbia Inn, HCOP Technical Assistance Mtg II, Wincopin Circle, Columbia, Maryland, (301) 730–3900.

September 17–18, 1992—The Double Tree Hotel, 300 Army Navy Drive, Arlington, VA 22202, (703) 892–4100, (800) 848–7000.

Attendees must make their own lodging arrangements. Those attending technical assistance meetings at the Columbia Inn, must indicate which session they will attend when contacting the hotel for arrangements (i.e., HCOP Technical Assistance Meeting I). Expenses incurred by the attendees will not be supported by the Federal Government.

Agenda items will include: Application Preparation (Competing and Noncompeting) and Grants Management Policies and Procedures. Special attention will be given to the development of the three page grant proposal summary, which is prepared by the applicant and is critical to the objective review process.

Participation in the technical assistance meetings does not assure approval and funding of prospective applications.

To obtain specific information regarding the conferences and programmatic aspects of this grant program, direct inquiries to: Ms. Cynthia Amis, Acting Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, HRSA, Parklawn Building, room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–4493.

This program is listed at 93.822 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: June 16, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92–18515 Filed 8–4–92; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Performance Review Board Appointments

AGENCY: Department of the Interior.

ACTION: Notice of Performance Review Board Appointments.

SUMMARY: This notice provides the names of individuals who have been appointed to serve as members of the Department of the Interior Performance Review Boards. The publication of these appointments is required by Section 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95–454, 5 U.S.C. 4314(c)(4).

DATES: These appointments are effective upon publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Morris A. Simms, Director of Personnel, Office of the Secretary, Department of the Interior, 1849 C Street, NW., Washington, DC 20240, telephone Number: 208–6761.

U.S. Department of the Interior SES Performance Review Boards (PRB)—FY 1992

Assistant Secretary—Fish and Wildlife and Parks

Joseph E. Doddridge (CA), Chairperson
Joseph S. Marler (CA)
James Spagnole (NC)
June Whelan (NC)

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Maryanne Bach (NC)

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Lawrence E. Cox (CA)
David A. Watts (CA)
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Assistant Secretary—Water and Science

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Peter Bermel (CA)
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Joseph Hunter (NC)
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Thomas Sheehan (CA
Donald J. Senese (NC)

Dated: July 29, 1992.

Approved for the Executive Resources Board

John E. Schrote,

Assistant Secretary-Policy, Management and Budget

[FR Doc. 92–18480 Filed 8–4–92; 8:45 am]

BILLING CODE 4310–01–M

Bureau of Land Management

[CA–060–02–5440–10–B026]

Realty Action; Proposed Exchange of Public Lands in Imperial County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: The Bureau of Land Management proposes to exchange approximately 1832 acres of public land in order to achieve more efficient management of the public land through consolidation of ownership and the acquisition of unique natural resource lands. All or part of the following described federal lands are being considered for disposal via exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

San Bernardino Base & Meridian, Imperial County, California

T.13 S., R.19 E.:
Section 8:SE¼
Section 15:N½,SW¼
Section 17:S½SE¼, NW¼NW¼NE¼
Section 18:E½W½, Lots 1–4
Section 19:E½W½, Lots 1–4
Section 20:All
Section 21:All
Section 22:NW¼NW¼
Tract 38:All

Final determination on disposal will await completion of an environmental analysis. The proposed exchange is consistent with the Bureau's land use planning objectives. Lands being proposed for exchange will be conveyed from the United States subject to the following reservations, terms and conditions:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, under the act of August 30, 1890 (43 U.S.C. 945).

2. All valid existing rights of record.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice shall segregate the affected public lands from appropriation under the public land laws, including the mining laws, except exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976. The segregation of the above-described land shall terminate upon issuance of a document conveying title to such lands or upon publication in the Federal Register of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the Area Manager, El Centro Resource Area Office, 333 South Waterman Avenue, El Centro, California 92243. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action.

Dated: July 23, 1992.

G. Ben Koski,

Area Manager.

[FR Doc. 92–18496 Filed 8–4–92; 8:45 am]

BILLING CODE 4310–40–M

[OR–030–92–4212–14; OR–39431]

Realty Action; Direct Sale of Public Lands; Malheur County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, sale of public lands in Malheur County, Oregon.

SUMMARY: The Bureau of Land Management has determined that the lands described below are suitable for public sale under section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719:

Williamette Meridian

T. 32., R. 40 E.,
Sec. 18: Lots 5 (0.67 acres) and 7 (2.91 acres).
The above lands aggregate 3.58 acres

The Bureau of Land Management proposes to sell the surface and subsurface estate except oil & gas to Margarette Eckstein to resolve an Occupancy Unauthorized Use (OR–42936) case which involves a small portion of a rural service center complex.

Conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interest being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50.00 nonreturnable filing fee for conveyance of the available mineral interests.

The proposed direct sale would be made at fair market value.

The proposed sale is consistent with the Southern Malheur Management Framework Plan. Due to the difficulty in managing these lands, private

ownership is believed to be in the best interests of the public. Private ownership will allow the current owner to work with county, state, and federal agencies to bring the service center facilities into compliance, and the owner will be able to secure any needed financial grant assistance to upgrade the facilities.

The patent, when issued will contain the following reservations to the United States:

1. A right of way there on for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. Reservation of Oil and Gas Mineral Estate.

The public lands described above shall be segregated from all forms of appropriation under the public land laws, including the mining laws upon publication of this notice in the **Federal Register**. The segregative effect will end upon issuance of the patent or 270 days from the date of the publication, whichever occurs first.

For a period 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, 100 Oregon Street, Vale, Oregon 97918. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In absence of any objections this proposed realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Sheldon E. Saxton, Realty Specialist, or Jerry L. Taylor, Area Manager, Bureau of Land Management, Jordan Resource Area, 100 Oregon Street, Vale, Oregon 97918, (503) 473–3144.

Dated: July 27, 1992.

James E. May,

District Manager.

[FR Doc. 92–18495 Filed 8–4–92; 8:45 am]

BILLING CODE 4310–33–M

[CA–940–92–4730–12]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATES: Filing was effective at 10 a.m. on the date of submission to the Bureau of Land Management (BLM), California State Office, Public Room.

FOR FURTHER INFORMATION CONTACT: Clifford A. Robinson, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, room E–2845, Sacramento, CA 95825, 916–978–4775.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office, Sacramento, CA.

Humboldt Meridian, California

T. 4N., R. 7E.,—Dependent resurvey, and subdivision of sections 21, 23, 24, 26, 27, 29 and 30, (Group 1005) accepted May 12, 1992, to meet certain administrative needs of the U.S. Forest Service, Shasta-Trinity National Forest.

Mount Diablo Meridian, California

T. 3S., R. 6W.,—Dependent resurvey, and metes-and-bounds survey, (Group 1020) accepted May 4, 1992, to meet certain administrative needs of the National Park Service, Golden Gate National Recreation Area.

T. 21N., R. 14E.,—Survey of lot 2, section 29, (Group 1098) accepted May 12, 1992, to meet certain administrative needs of the U.S. Forest Service, Tahoe National Forest.

T. 16N., R. 7W.,—Dependent resurvey, and subdivision of section 6, (Group 883) accepted May 12, 1992, to meet certain administrative needs of the U.S. Forest Service, Mendocino National Forest.

T. 9N., R. 10E.,—Supplemental plat of the SE¼ of section 12, accepted May 14, 1992, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

San Bernardino Meridian, California

T. 9N., R. 2W.,—Supplemental plat of section 15 and SE¼ of section 10, accepted May 26, 1992, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

T. 9N., R. 2W.,—Supplemental plat of section 31, accepted May 26, 1992, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

T. 9N., R. 3W.,—Supplemental plat of NW¼ of section 3, accepted May 26, 1992, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

T. 8N., R. 3W.,—Supplemental plat of sections 2 and 3, accepted May 26, 1992, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

T. 7N., R. 3W.,—Supplemental plat of the W½ of section 6, accepted May 26, 1992, to meet certain administrative needs of the BLM, California Desert District, Barstow Resource Area.

All of the above listed surveys are now the basic record for describing the lands for all authorized purposes. The surveys will be placed in the open files in the BLM, California State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fee.

Dated: July 27, 1992.

Clifford A. Robinson,

Chief, Branch of Cadastral Survey.

[FR Doc. 92–18494 Filed 8–4–92; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Availability of the Agency Draft Pondberry Recovery Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of an agency draft recovery plan for pondberry. This species is known from both publicly and privately owned sites in Arkansas, Georgia, Mississippi, Missouri, North Caroline, and South Carolina. The species is believed to have been extirpated from Florida, Louisiana, and Alabama. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before September 25, 1992, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the address shown above or telephone 704/665–1195, Ext. 224.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals or plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for recognizing the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a pulbic notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The agency draft recovery plan for pondberry outlines a mechanism that provides for the recovery and eventual delisting of this federally endangered species. Pondberry was listed as an endangered species primarily because of alteration or destruction of its habitat through land-clearing, drainage modification, or timber-harvesting. The plan requires that the Service and other cooperators in the recovery of this species determine the biological requirements of the species, determine the number of individuals that constitutes a viable population, and determine and implement the management actions needed to ensure the continued existence of 25 self-sustaining populations. This agency draft recovery plan was preceded by a technical review draft that was reviewed by species experts and by experts in the protection of rare plants. Comments and information provided during this review will be used in preparing the final recovery plan.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 27, 1992.

Brian P. Cole,

Field Supervisor,

[FR Doc. 92-18497 Filed 8-4-92; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010-0034); Washington, DC 20503, telephone (202) 395-7340, with copies to Chief, Engineering and Standards Branch; Engineering and Technology Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street, Herndon, Virginia 22070-4817.

Title: Notice of Processing of Geological and Geophysical Information and Data, 30 CFR 251.11 and 251.12.

OMB approval number: 1010-0034.

Abstract: Respondents conducting exploration for oil or gas provide the Minerals Management Service with geological and geophysical information and data, processed and analyzed information, and interpretations which are used to properly evaluate Federal Outer Continental Shelf (OCS) resources and environmental conditions as required by the OCS Lands Act.

Bureau form number: None.

Frequency: On occasion.

Description of respondents: Federal OCS permittees.

Estimated completion time: 3 hours.

Annual responses: 400.

Annual burden hours: 1,200.

Bureau Clearance Officer: Dorothy Christopher, (703) 787-1238.

Dated: June 23, 1992.

Richard Roldan,

Acting Assistant Secretary, Land and Minerals Management.

[FR Doc. 92-18491 Filed 8-4-92; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010-0031); Washington, DC 20503, telephone (202) 395-7340, with copies to Chief, Engineering and Standards Branch; Engineering and Technology Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070-4817.

Title: Reimbursement to Permittees for Certain Geological and Geophysical Information and Data, 30 CFR 251.13.

OMB approval number: 1010-0031.

Abstract: Section 26 of the Outer Continental Shelf (OCS) Lands Act requires that certain costs be reimbursed to the parties submitting required geological and geophysical (G&G) information and data requested by the Minerals Management Service (MMS). Under the law, permittees can be reimbursed for the costs of reproducing any G&G data required to be submitted. In order for the Government to determine the propriety and level of reimbursement, permittees are required to send a request for reimbursement to the Director, MMS, where it will be reviewed and evaluated. Reimbursement will be made according to appropriate criteria.

Bureau form number: None.

Frequency: On occasion.

Description of respondents: Federal OCS oil and gas permittes.

Estimated completion time: 7 hours.

Annual responses: 300

Annual burden hours: 2,100.

Bureau Clearance Officer: Dorothy Christopher, (703) 787-1238.

Dated: June 18, 1992.

Richard Roldan,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 92–18492 Filed 8–4–92; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Withdrawal

By Notice dated April 28, 1992, and published in the **Federal Register** on May 6, 1992, (57 FR 19443), Lab, Inc., 700 Grand Avenue, Ridgefield, New Jersey 07657, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II.
Codine (9050)	II.
Oxycodone (9143)	II.
Hydrocodone (9193)	II.
Levorphanol (9220)	II.
Meperidine (9230)	II.
Morphine (9300)	II.
Oxymorphone (9652)	II.
Fentanyl (9801)	II.

On May 26, 1992, Lab, Inc., 700 Grand Avenue, Ridgefield, New Jersey 07657, requested that their application for registration as an importer be withdrawn, therefore the application submitted by Lab, Inc., is hereby withdrawn.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: July 29, 1992.

[FR Doc. 92–18538 Filed 8–4–92; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Pension Coverage and Adequacy of the Advisory Council on Employee Welfare Pension Benefit Plans will be held at 1 p.m., Wednesday, September 9, 1992, in suite S–4215 AB, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This Pension Coverage and Adequacy Working Group was formed by the Advisory Council to study issues relating to Pension Coverage and Adequacy for employee benefit plans covered by ERISA.

The purpose of the September 9 meeting is to discuss the preliminary findings of the Group and to commence the preparation of a final report regarding the trend in decline in participation in defined contribution plans, and the effect of this trend on pension coverage and adequacy. The Working Group will also take testimony and/or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit written request on or before September 1, 1992 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 1, 1992.

Signed at Washington, DC this 30th day of July, 1992.

David George Ball,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 92–18487 Filed 8–4–92; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: August 12, 1992; 8:30 a.m. to 5 p.m.

Place: Room 1133, National Science Foundation (NSF), 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Kishan Baheti, Program Director, Division of Electrical and Communications Systems, NSF, 1800 G Street, NW., room 1151, Washington, DC 20550. Telephone: (202) 357–9618.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Systems Theory Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552 b. (c) the Government in the Sunshine Act.

Reason for Late Notice: Meeting was scheduled late due to a backlog of proposals to be reviewed.

Dated: July 31, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–18560 Filed 8–4–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or

proposed to be issued from July 13, 1992 through July 24, 1992. The last biweekly notice was published on July 22, 1992 (57 FR 32571).

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Directives Review Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 4, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: March 10, 1992, as revised May 11, 1992, and July 10, 1992. The March 10, 1992, submittal was noticed on April 15, 1992 (57 FR 13128).

Description of amendment request: The proposed Technical Specification (TS) changes will (1) increase the boron concentration in the refueling water storage tank (RWST) and safety injection system accumulators from 2000-2200 ppmB to 2400-2600 ppmB, (2) increase the specified volume of NaOH in the spray additive tank (SAT) from 2736-2912 gallons to 3268-3964 gallons and add the level range of 92-96 percent, (3) change the level of boric acid in the boric acid tank (BAT) from 60 percent (21,400 gallons) to 74 percent (24,150 gallons) in Modes 1-4, and from 17 percent (7100 gallons) to 21 percent (6650 gallons) in Modes 5-6, and (4) reference the Core Operating Limits Report (COLR) for determining the necessary RCS and refueling canal boron concentrations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

T3(a) Increase in Boron Concentration in the RWST and Safety Injection Accumulators: The higher boron concentration does not increase the accident initiation probability for any of the Final Safety Analysis Report (FSAR) events. CP&L has determined that a) the higher boron concentration in the RWST, SI System, and RCS will have no adverse effect on the stainless steel container materials, despite a slightly lower pH at 2600 ppmB than at 2200 ppmB; b) there is no danger of boron precipitation; and c) corrosion of carbon steel by leakage of the more highly borated water will not be increased significantly because the pH change is small and still in the range where corrosion rates are nearly independent of pH. Therefore, the probability of an accident is not increased by the higher boron concentration.

The higher boron concentration in the RCS causes a very small increase in tritium production rate in the coolant for a short period near the beginning of cycle. This does not contribute significantly to off-site doses or to personnel doses. All radionuclide source terms used in the FSAR off-site dose calculations remain unchanged because tritium is not currently modeled in the FSAR Chapter 15 off-site dose calculations. The post-LOCA hydrogen production may increase by about 3.5 percent (due to containment spray reacting with zinc) because of the higher boron concentration. This increase is considered insignificant. To ensure that the containment spray retains its capability of removing iodine from the containment atmosphere following a LOCA, and to ensure that the sump solution will retain the iodine, it is proposed to increase the NaOH volume in the Spray Additive Tank to maintain spray and sump pH between 8.5 and 11.0. Therefore, there will be no increase in the consequences of an accident previously evaluated due to the higher boron concentration.

T3(b) Increase in NaOH Volume: Neither the Spray Additive Tank (SAT), the NaOH solution, nor failure of the tank contributes to the initiation of any FSAR Chapter 15 event. The proposed increase in NaOH volume does not increase any of the accident initiation probabilities. Therefore, the probability of an accident is not increased by the larger NaOH volume.

The increase in NaOH volume compensates for the higher boron concentration so that pH in the containment spray and sump remains between 8.5 and 11.0 for effective iodine absorption by the containment spray and iodine retention in the sump. Thus, the proposed amendment does not involve a significant increase in the consequences of any accidents due to the increase in boron concentration when the NaOH volume is also increased.

T3(c) Change in Minimum Level of Boric Acid in the Boric Acid Tank:

Neither the Boric Acid Tank, the boric acid, nor failure of the tank contributes to the initiation of any FSAR Chapter 15 event. The proposed change in minimum level does not increase any of the accident initiation probabilities. Therefore, the probability of each accident previously evaluated in the FSAR is not increased by the proposed minimum boric acid level.

The proposed change in minimum BAT volume is necessary to satisfy shutdown margin criteria via boration control due to the reduction and eventual elimination of the WABAs [wet annular burnable absorbers] and reduction of the other burnable poisons. Shutdown margins are verified each cycle in the Reload Safety Evaluation. The BAT does not contribute to the consequences of any FSAR Chapter 15 accident. Thus, the consequences of each accident previously evaluated in the FSAR is not significantly increased by the proposed minimum boric acid volume.

T3(d) Core Operating Limits Report: Boron concentration during refueling does not contribute to the initiation of any FSAR Chapter 15 event. The proposed change does not increase any of the accident initiation probabilities. It is concluded that the probability of each accident previously evaluated in the FSAR is not increased by the higher boron concentration.

The purpose of this proposed Technical Specification change is to ensure adequate shutdown during refueling. The consequences of the accidents previously evaluated in the FSAR are not increased by changing the Technical Specifications to refer to the COLR for a potentially more restrictive refueling boron concentration.2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(a) Increase in Boron Concentration in the RWST and Safety Injection Accumulators: The proposed changes do not change normal plant operations except as required to maintain the modified boron, lithium, and pH control program. No changes are made to system functional requirements and no new accident scenarios have been identified. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(b) Increase in NaOH Volume: The proposed change does not change plant design or operation except to fill and maintain the SAT at the new level range. No new accidents have been identified.

Therefore, the proposed increase in NaOH volume does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(c) Change in Minimum Level of Boric Acid in the Boric Acid Tank: The proposed change does not change plant design or operation except to maintain the proposed new minimum level. Therefore, the proposed increase in minimum boric acid level does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(d) Core Operating Limits Report: The proposed change does not change plant design or refueling operations except to require a boron concentration of [greater than] 2000 ppmB or as specified in the Core Operating Limits Report (COLR), which ever is more limiting (higher). No new or different accident scenario has been identified. Therefore, the proposed increase in minimum boron concentration does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

(a) Increase in Boron Concentration in the RWST and Safety Injection Accumulators: The inadvertent boron dilution event in Modes 3, 4 and 5 were [sic] reanalyzed, and Technical Specification Figure 3.1-1 will be revised to ensure that all shutdown margin criteria satisfy all Bases despite the higher boron concentration. The current analysis results for the inadvertent boron dilution event in Modes 1, 2 and 6 remains [sic] valid since the analysis assumptions with respect to boron concentrations delineated in FSAR Section 15.4.6 are unchanged due to the increase in boron concentration. Furthermore, an inadvertent boron dilution event in Mode 6 is precluded by administrative procedures. All acceptance criteria in the Bases of Technical Specifications are satisfied without revision.

The higher boron concentration together with the proposed proposed revision to Figure 3.1-1 ensures that the Limiting Conditions for Operation are retained. The Reload Safety Evaluation will confirm that all applicable criteria are satisfied with no reduction in margins of safety. Therefore, the higher boron concentration does not involve a significant reduction in the margin of safety.

(b) Increase in NaOH Volume: The permissible range of the proposed NaOH volume is larger than before; thus margins to the maximum and minimum Technical Specification limits will be easier to maintain. Since the structural and seismic analyses were based on the tank filled to capacity and the proposed volume will be about 50 percent of capacity, these analyses continue to have sufficient margin. The calculated containment spray and sump pH transients show ample margin within the required pH range, 8.5-11.0, for solutions of 28-30 percent NaOH. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

(c) Change in Minimum Level of Boric Acid in the Boric Acid Tank: The margins of safety of interest are the shutdown margin criteria specified in the Technical Specification Bases 3/4.1.2. Those criteria are verified for the final fuel design and final core loading pattern [for] each cycle in the Reload Safety Evaluation. The proposed minimum level, based on the Cycle 5 design, will provide adequate margin for future cycles. Therefore, the proposed minimum boric acid level does not involve a significant reduction in the margin of safety.

(d) Core Operating Limits Report: The margins of safety of interest are the shutdown margin criteria specified in the Technical Specification Bases 3/4.9.1. and requires that k_{eff} [less than] 0.95. Since this criterion is not measurable, it is proposed to specify the boron concentration necessary to achieve this criterion in the COLR for each reload. The Technical Specification will require the more restrictive of either the value in the COLR or 2000 ppmB. This change ensures that the shutdown margin specified in the Technical Specification Bases is satisfied. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: June 17, 1992

Description of amendment request: The amendment request proposes an administrative change to the Technical Specifications. The proposed change would remove the list of primary containment conductor overcurrent protective devices from the Technical Specifications and place it in a controlled procedure. The limiting conditions for operation, action statements, and surveillance requirements of the overcurrent protective devices would remain unchanged.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a) the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

The evaluation was measured against the criteria used to establish safety limits, the limiting safety system settings, and the limiting conditions for operations. The results of the evaluation determined that the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated; or
2. Create the possibility of a new or different kind of accident from any accident previously evaluated; or
3. Involve a significant reduction in a margin of safety.

This is an administrative change to control the list of Primary Containment Penetration Overcurrent Protective devices outside the LaSalle Unit 1 and Unit 2 Technical Specifications. Removal of this component list does not change the probability of any accident initiators or change any other relevant accident initial assumptions. The administrative controls provided to maintain this component list assure that the design and operation of the plant will continue to be in accordance with the UFSAR, Facility License and the associated Technical Specifications. Therefore, the possibility of a new or different kind of accident from any previously evaluated is not created. Finally, because the change is purely administrative in nature, no margin of safety is affected.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: Richard J. Barrett

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: July 9, 1992

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Table 2.2-1 Reactor Protective Instrumentation Trip Setpoint Limits and TS Table 3.3-4 Engineered Safety Feature Actuation System (ESFAS) Instrumentation Trip

Values, to allow for the replacement of the narrow range containment building pressure transmitters.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The containment building pressure parameter is used to mitigate the effects of an accident that causes a release of energy into the containment building such as a secondary line break (Main Steam line or Main Feedwater line) or a primary loss of coolant (LOCA). The purpose of the containment building narrow range pressure transmitters is to provide an input signal to the Containment Pressure - High trip bistable in the RPS [reactor protection system] and to the Containment Pressure - High and High-High trip bistables in the ESFAS. The generation of the RPS trip function and the ESFAS functions (SIAS, CIAS, CCAS, and CSAS) [(safety injection actuation signal, containment isolation actuation signal, containment cooling actuation signal, containment spray actuation signal)] is dependent upon the setpoint values for the High and/or High-High containment building pressure bistables. The setpoints are revised to account for the slightly larger calculated instrument loop errors associated with the replacement transmitters. Currently accepted loop error methodology and calculation assumptions were used and resulted in the larger instrument loop errors. In addition, the Allowable Values associated with these functions are being revised to account for the effect of the loop errors upon the PTE [periodic test errors] and the lowered setpoints. The reduction of the setpoint values maintains the analytical limits used in determining the existing trip/actuation values.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from Any Previously Evaluated

This change deals with changing the Containment Pressure High and High-High setpoints and allowable values for the associated functions of the RPS and ESFAS due to the replacement of the existing containment building pressure transmitters. No modifications to the instrument loop configurations will be made, and no additional electrical or physical interfaces with equipment whose malfunction or failure could initiate an accident will be created. The purpose of the instrument loops to provide input to the systems used to mitigate the consequences of previously evaluated accidents is unchanged. The existing evaluations and failure analyses in the ANO-2 SAR [safety analysis report] are unchanged.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety

The safety functions of the RPS and ESFAS setpoints associated with containment building pressure are not altered as a result of the setpoint and allowable value changes. The setpoints and allowable values are revised to account for slightly larger calculated instrument loop errors associated with the replacement transmitters. Currently accepted loop error methodology and calculation assumptions were used and resulted in the larger instrument loop errors. The existing analytical limits used in determining the trip/actuation values are maintained with the new setpoint values.

The measurement channel information and actions listed in TS Table 3.3-1 Reactor Protective Instrumentation are not affected by this change. In addition, the response times listed in TS Table 3.3-2 Reactor Protective Instrumentation Response Times and TS Table 3.3-5 Engineered Safety Features Response Times will remain unchanged as the response times for the new pressure transmitters are equal to the response times for the existing pressure transmitters.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: John T. Larkins

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: July 9, 1992

Description of amendment request: The amendment revises Technical Specification (TS) Figure 3.6-1, "Containment Internal Pressure vs. Containment Average Air Temperature," to incorporate values consistent with the emergency core cooling system (ECCS) analysis assumptions and increases the allowable upper limits based on recent containment design-basis accident (DBA) analysis. Additionally, the amendment reduces the allowable peak linear heat rate (PLHR) limit of TS Figure 3.2-1 to maintain a large-break loss of coolant accident (LBLOCA) peak clad temperature (PCT) within the 10 CFR 50.46 limit of 2200 F.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve A Significant Increase in the Probability or Consequences of An Accident Previously Evaluated.

Containment internal pressure, average air temperature, humidity or PLHR are not event initiators of any accidents analyzed in the ANO-2 Safety Analysis Report (SAR) and do not effect [sic] the probability of occurrence of any event previously analyzed. Therefore, this change does not increase the probability of any accident previously evaluated.

The proposed change in the Region of Acceptable Operation of ANO-2 TS Figure 3.6-1 revises the limits on containment internal pressure and average air temperature to those now assumed in the SAR LBLOCA ECCS analysis. These limits, along the with PLHR limit proposed, result in a limiting PCT of 2086 F which is slightly greater than the present ANO-2 SAR value of 2078 F; but well within the 10CFR50.46 limit of 2200 F.

The proposed changes to the upper region of TS Figure 3.6-1 still ensure that the peak containment pressure following the containment DBA is less than the 54 psig design pressure of the containment.

The proposed change to the PLHR limit of ANO-2 TS 3.2.1 Figure 3.2-1 decreases the limit from 13.5 kW/ft to 12.1 kW/ft. When the hot rod calculation is performed using the proposed limit, the resulting PCT is 2086 F, which is well within the 10CFR50.46 limit of 2200 F. Hence, there is no significant increase in the consequences of a previously evaluated accident.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed changes do not involve any design changes, or plant modifications. The proposed changes in the Region of Acceptable Operation of ANO-2 TS Figure 3.6-1 and the PLHR limit of ANO-2 TS 3.2.1 Figure 3.2-1 have been evaluated and shown to result in peak containment pressures within the design pressure and a PCT which is bounded by 10CFR50.46 requirements.

Additionally, both the proposed PLHR limit and the new lower limit for containment temperature and pressure represent more restrictive limitations imposed by the present Technical Specifications and constitute a conservative change in plant operation.

Therefore, these changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in a Margin of Safety.

The proposed change in the PLHR limit of ANO-2 TS 3.2.1 Figure 3.2-1 and the Region of Acceptable Operation of ANO-2 TS 3.6-1 have [sic] been evaluated and shown to result in a peak clad temperature which is well within the guidance provided by 10CFR50.46. A small increase in the Cycle 1 PCT of 2078 F to 2086 F has been calculated with the proposed changes. This value is still below the 2200 F limit and the 8 F increase in PCT is less than the 50 F significant change criteria given in 10CFR50.46. Additionally, the Region of Acceptable Operation of ANO-2 TS 3.6.1.4 has been evaluated and shown to result in peak containment pressures within the design pressure as was the case with the original analyses.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: John T. Larkins

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: August 9, 1991

Description of amendment request: The proposed amendment would modify the Three Mile Island, Unit 1 Technical Specifications to reflect the Babcock and Wilcox reevaluations of the generic Loss of Coolant Accident (LOCA) linear heat generation rate allowable limits, and to administratively revise the Bases discussion for minimum borated water storage tank (BWST) volumes to ensure adequate shutdown margin. Peak clad temperature and Emergency Core Cooling System (ECCS) acceptance criteria would be preserved.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated. The proposed change to Technical Specification Figure 3.5-2M incorporates allowable LOCA linear heat rate limits which continue to preserve peak clad temperature and ECCS acceptance criteria. The revised linear heat rate limits are more restrictive than the existing limits at the 6-foot elevation beginning-of-cycle and at end-of-life for all core elevations. The proposed BWST Technical Specification Bases changes are administrative in nature. Therefore, operation in accordance with the proposed amendment does not involve a significant increase in the probability of occurrence or the consequences of an accident previously evaluated.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change to Technical Specification Figure 3.5-2M incorporates conservative adjustments to existing analyses. Peak clad temperature and ECCS acceptance criteria are preserved. The proposed BWST Technical Specification Bases change is administrative in nature. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The proposed change incorporates LOCA linear heat rate limits which preserve the peak clad temperature and ECCS acceptance criteria using approved methodologies. The proposed borated water storage Technical Specification Bases change is administrative in nature. Therefore, it is concluded that operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: June 19, 1992

Description of amendment request: This request is to remove reactor coolant pump (RCP) snubber RC-U-003 from the operability requirements applicable to safety related snubbers. Due to minor leakage in the hydraulic supply line used for filling the snubber cavity, the snubber could become inoperable during the present operating cycle. The plant would have to be shut down to repair the leak. This amendment would preclude the need for an unnecessary plant shutdown in the event operability of the snubber becomes questionable. The licensee has presented justification for this temporary change on the basis of an engineering analysis of pipe stresses during a design seismic event. The snubber will be repaired during the next plant outage of sufficient duration.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The inoperability of Snubber RC-U-003 does not involve a significant increase in the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the [Safety Analysis Report] SAR. The accident or malfunction related to this change is the occurrence of the maximum hypothetical earthquake or the design basis [loss-of-coolant accident] LOCA. Inoperability of these snubbers is unrelated to the possibility of occurrence of these postulated design basis events. Seismic design and mounting of these snubbers ensures that other safety related equipment will not be adversely effected. The structural analysis referenced above, which considers original design basis criteria as well as ASME 1986 Code criteria, demonstrates that the consequences of the postulated maximum hypothetical earthquake or design basis LOCA, and applicable loading combinations are not increased.

2. The inoperability of Snubber RC-U-003 does not create a possibility for an accident or malfunction of a different type than any previously identified in the SAR. Under normal operating conditions including heatup and cooldown thermal transients, these snubbers do not perform a safety-related function. The structural analysis referenced above, which considers original design basis criteria as well as ASME 1986 Code criteria, demonstrates that the [reactor coolant system] RCS components and [reactor coolant pressure boundary] RCPB functional integrity is maintained during a maximum hypothetical earthquake and that the integrity of the remainder of the RCPB is maintained during design basis LOCA loads such that a secondary break of the RCPB would not occur. The snubbers are seismically designed and mounted which precludes interaction with other safety related equipment.

3. The inoperability of Snubber RC-U-003 does not involve a significant reduction in the margin of safety. Technical Specification Section 3.16 and 4.17 apply to all safety-related snubbers and requires each snubber to be operable whenever the system protected by the snubber is required to be operable. The intent of this Technical Specification, as defined in Technical Specification 3.16 Bases, is to ensure that the probability of structural damage to piping as a result of dynamic loads occurring from an earthquake or severe transient, or thermal motion, is not increased. The structural analysis referenced above demonstrates that the reactor coolant pumps and piping in this particular portion of TMI-1's system are capable of withstanding maximum hypothetical earthquake loads, design basis LOCA loads, and applicable loading

combinations, without Snubber RC-U-003 operability.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: July 17, 1992

Description of amendment request: The proposed amendments would revise the Technical Specifications (TSs) for Hatch Units 1 and 2 as follows:

Proposed Change 1:

This proposed change will revise the definition of Core Alteration in TS 1.c for Unit 1 and 1.0 for Unit 2.

Proposed Change 2:

This proposed change will revise the definitions of Cold Shutdown Condition and Refuel Mode in Unit 1 TS Section 1.0, and the Operational Conditions in Unit 2 TS Table 1.2.

Proposed Change 3:

This proposed change will revise the Action statement for the residual heat removal service water (RHRSW) system shutdown cooling mode in Unit 2 TS 3.7.1.1.

Proposed Change 4:

This proposed change will alter the wording of Unit 2 TS 3.9.3. This TS currently requires all control rods to be fully inserted during Core Alterations. The proposed change will require all control rods to be fully inserted when moving fuel assemblies or startup sources in the core, rather than during all Core Alterations.

This proposed change will also revise the wording of the Bases for TS 3.9.3. The phrase "during CORE ALTERATIONS" is being replaced with the phrase "during fuel or startup source movement."

Proposed Change 5:

This proposed change will add new Unit 1 TS 3.10.E.3, "Requirements for Withdrawal of a Control Rod in the Cold Shutdown Condition," and newUnit 2 TS 3.10.5, "Single Control Rod Withdrawal - Cold Shutdown," which will permit the withdrawal of a single control rod for testing while in Cold Shutdown (Unit 2 Mode 4) by imposing certain restrictions.

In addition, this proposed change will add Bases for these new TSs for both units and will include a reference to the new Unit 2 TS 3.10.5 and its Bases in the Unit 2 index. The current Unit 2 TS 3.10.5, "High Pressure Coolant Injection System," is being deleted along with its listing in the index. Also, the title of Unit 2 TS 3/4 10.2 was changed by Amendment 121 from "Rod Sequence Control System" to "Rod Worth Minimizer," but the corresponding index listing was not changed. This listing is now being corrected.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

PROPOSED CHANGE 1:

1.A) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

* * * * *

The movement of incore instruments does not apply to either of these analyses [discussed in the July 17, 1992, submittal] because the amount of fissile material contained in the detectors is so small their movement does not result in any significant change in core reactivity. Therefore, removal of incore instruments from the definition does not involve an increase in the probability of occurrence or consequences of an inadvertent criticality accident.

* * * * *

1.B) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The amount of fissile material contained in incore instruments is so small, their movement does not result in any significant change in core reactivity. Therefore, this type operation could not cause an inadvertent criticality.

* * * * *

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

1.C) The proposed amendment does not involve a significant reduction in the margin of safety.

Since the definition of Core Alteration has no impact on any safety limit or limiting safety system setting, this change has no effect on the margin of safety. Therefore, this change does not involve a significant reduction in the margin of safety.

PROPOSED CHANGE 2:

2.A)The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Specifying the reactor mode based on the condition of the vessel head closure bolts only serves to clarify exactly when certain modes are entered. This change will prevent confusion as to the applicability of certain requirements. This change will have no effect on the probability of occurrence or consequences of any type of accident.

* * * * *

Therefore, allowing the mode switch to be in Shutdown position while in the Refuel mode will provide for conditions which are at least as conservative as the conditions assumed in the accident analyses concerning the possibility of inadvertent criticality during refueling. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2.B) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Changing operational mode definitions will only serve to clarify requirements and avoid confusion during mode changes. This change will not affect existing operations or create any new modes of operation of any safety systems. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

2.C) The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed changes to the operational mode definitions will only enhance clarity. It will be easier for the TS user to determine when the reactor mode changes and which set of operability requirements are in effect. Some of these operability requirements concern limiting safety systems and therefore, safety limits. By simplifying identification of the current reactor mode, the TS user will be able to more easily determine limiting safety system operability requirements. Therefore, it is more likely the appropriate equipment will be operable and capable of fulfilling its safety function to prevent exceeding any safety limits. Therefore, this change does not involve a significant reduction in the margin of safety.*13.A) PROPOSED CHANGE 3:*

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The purpose of the [residual heat removal service water] RHRSW system is to remove decay heat from the [residual heat removal] RHR system which may be operating in one of several different modes. The mode of concern for Unit 2 Specification 3.7.1.1.b is the shutdown cooling mode in which the RHR and RHRSW systems remove decay heat from the primary coolant to reduce and maintain the coolant temperature below 212 degrees F. Unit 2 Specification 3.9.12 convers operability requirements for RHR in the shutdown cooling mode. The proposed requirements for RHRSW in the shutdown

cooling mode will ensure operability of an RHRSW subsystem capable of supporting operation of the RHR subsystem which satisfies the requirements of Specification 3.9.12. Since the RHR shutdown cooling specification serves to preclude a loss of shutdown cooling, and the proposed RHRSW specification will serve to ensure RHR is capable of performing this function, then the proposed change will not involve a significant increase in the probability of an accident previously evaluated. The shutdown cooling mode of RHR has no effect on the consequences of any type accident.

3.B) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above, the RHR system performs the shutdown cooling function and the RHRSW system supports the RHR system. This change will ensure the availability of the RHRSW system to perform this support function. This change will introduce no new operational modes of the RHR or RHRSW systems. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3.C) The proposed amendment does not involve a significant reduction in the margin of safety.

No safety limits or limiting safety system settings are affected by the shutdown cooling function of the RHR system or the supporting function of the RHRSW system. Therefore, this change does not involve a significant reduction in the margin of safety.

PROPOSED CHANGE 4:

4.A) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This specification is being reworded to eliminate the self-contradictory nature of literal compliance with its present wording. This new wording will not change the intent of the specification with is preclusion of an inadvertent criticality during refueling. Unit 2 [Final Safety Analysis Report] FSAR section 15.1.14 discusses a fuel assembly insertion error during refueling. This event involves loading a fuel assembly in an incorrect location with all control rods fully inserted and concludes no inadvertent criticality will occur.

* * * * *

Since the proposed specification will continue to ensure the FSAR accident analysis assumptions are valid, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

4.B) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This change does not affect the intent of the specification. No new modes of operation will result. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

4.C) The proposed amendment does not involve a significant reduction in the margin of safety.

No safety limits or limiting safety system settings are affected by Core Alterations or any other refueling activities. Therefore, this change does not involve a significant reduction in the margin of safety.

PROPOSED CHANGE 5:

5.A) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

With the reactor mode switch in the Refuel position, the analyses for control rod withdrawal during refueling are applicable and, provided the assumptions of these analyses are satisfied in Cold Shutdown, these analyses will bound the consequences of an accident. Explicit safety analyses in the FSAR (Section 15.1.13) demonstrate the functioning of the refueling interlocks and adequate Shutdown Margin (SDM) will preclude unacceptable reactivity excursions.

* * * * *

Deletion of the current Specification 3.10.5, "High Pressure Coolant Injection System," will have no impact whatsoever because it is stated within the specification that it is for use during a one time test and is only applicable from June 2-9, 1980. Since this time period has elapsed, this specification is no longer applicable. Therefore, deletion of this specification does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The correction of the title of Unit 2 Specification 3/4 10.2 in the index is strictly an editorial correction. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

5.B) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Removal of one control rod and/or the associated control rod drive mechanism from the reactor pressure vessel is currently allowed in the Refuel mode by Unit 2 Specification 3.9.11.1. The proposed specification will allow the same operation in the Cold Shutdown mode provided the same protection is provided against inadvertent criticality which normally exists in the Refuel mode. Therefore, the proposed specification does not involve any new modes of operation, just performance of an existing operation in a different operational mode. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

* * * * *

The correction of the title of Unit 2 Specification 3/4 10.2 in the index is strictly an editorial correction. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

5.C) The proposed amendment does not involve a significant reduction in the margin of safety.

This specification does involve limiting safety system settings (LSSSs). The LSSSs which are normally required to be operable in the Refuel mode are also required to be operable in the Cold Shutdown mode while performing operations per the proposed specification. These requirements are intended to afford the same protection against inadvertent criticality as normally exist in the Refuel mode. By maintaining this level of protection, the margin of safety will be maintained at the same level which exists when this operation is being performed in the Refuel mode. Therefore, this change does not involve a significant reduction in the margin of safety.

* * * * *

The correction of the title of Unit 2 Specification 3/4 10.2 in the index is strictly an editorial correction. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513 Attorney for the licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: November 18, 1991, as supplemented March 2, 1992. Additional changes requested by the licensee's submittal are outside the scope of this notice.

Description of amendment request: The proposed amendments wouldrevise the Technical Specification (TS) 3.4.9.3, "Cold Overpressure Protection Systems," to relocate the depressurizing of the reactor coolant system (RCS) through a RCS vent from statement c. of the limiting condition for operation (LCO) to the initial LCO statement, which is an editorial change. A new action statement c. will allow the combination of one residual heat removal (RHR) suction relief valve (SRV) and one power-operated relief valve (PORV) to be used for cold overpressure protection. An action statement is proposed for Modes 5 and 6 that decreases the allowed out-of-service time (AOT) from 7 days to 24 hours with only one valve available to provide cold overpressure protection.

Specifically:

(1) TS 3.4.9.3, in the LCO statement, change "At least one of the following Cold Overpressure Protection Systems shall be OPERABLE" to "At least one of the following groups of Cold Overpressure Protection Devices shall be OPERABLE when the reactor coolant system (RCS) is not depressurized through a vent path capable of relieving at least 670 gpm water flow at 470 psig." This constitutes an editorial change since the statement for the vent path was relocated from LCO statement c.;

(2) TS 3.4.9.3, the LCO statement c., change "The Reactor Coolant System (RCS) depressurized with an RCS vent capable of relieving at least 670 gpm water flow at 470 psig" to "One RHR SRV and one PORV with setpoints as described above.";

(3) TS 3.4.9.3a, the action statement, change "With one PORV and one RHR suction relief valve inoperable, either restore two PORVs or two RHR suction relief valves to OPERABLE status within 7 days or depressurize and vent the RCS as specified in Specification 3.4.9.3.c above, within the next 8 hours." to "In Mode 4, with only one PORV or one RHR SRV OPERABLE, restore one additional valve to OPERABLE status within the next 7 days or depressurize and vent the RCS, as specified in 3.4.9.3 above, within the next 8 hours.";

(4) TS 3.4.9.3b, add a new action statement b. which states, "In MODES 5 and 6, with only one PORV or one RHR SRV OPERABLE, restore one additional valve to OPERABLE status within the next 24 hours or depressurize and vent the RCS, as specified in 3.4.9.3 above, within the next 8 hours.";

(5) TS 3.4.9.3c, move the current action statement b. to action statement c. Change "With both PORVs and both RHR suction relief valves inoperable, depressurize and vent the RCS as specified in Specification 3.4.9.3.c, above, within 8 hours." to "In MODES 4, 5, or 6 with none of the PORVs or RHR SRVs OPERABLE, depressurize and vent the RCS as specified in 3.4.9.3 above, within the next 8 hours.";

(6) TS 3.4.9.3d, change action statement c. to action statement d. and change "In the event either the PORVs, the RHR suction relief valves, or the RCS vent(s) are used" to "In the event that the PORVs and/or RHR SRVs, or the RCS vent(s) are used>; and

(7) TS 3.4.9.3e, change action statement d. to action statement e.

Additionally, TS Bases for the cold overpressure protection systems on page B 3/4 4-16 is being changed by replacing the first paragraph with the following:

The OPERABILITY of two PORVs, two RHR suction relief valves, a PORV and RHR SRV, or an RCS vent capable of relieving at least 670 gpm water flow at 470 psig ensures that the RCS will be protected from pressure transients which could exceed the limits of Appendix G to 10 CFR part 50 when one or more of the RCS cold legs are less than or equal to 350 [degrees] F. The PORVs have adequate relieving capability to protect the RCS from overpressurization when the transient is limited to either: (1) the start of an idle RCP with the secondary water temperature of the steam generator less than or equal to 50 [degrees] F above the RCS cold leg temperatures, or (2) the start of all three charging pumps and subsequent injection into a water-solid RCS. The RHR SRVs have adequate relieving capability to protect the RCS from overpressurization when the transient is limited to either: (1) the start of an idle RCP with the secondary to primary water temperature difference of the steam generator less than or equal to 25 [degrees] F at an RCS temperature of 350 [degrees] F and varies linearly to 50 [degrees] F at an RCS temperature of 200 [degrees] F or less, or (2) the start of all three charging pumps and subsequent injection into a water-solid RCS. A combination of a PORV and a RHR SRV also provides overpressure protection for the RCS.

The second paragraph of the Bases is also being revised by changing "Operation with a PORV setpoint less than or equal to the maximum setpoint ensures that the nominal 16 EFPY Appendix G reactor vessel NDT limits" to "Operation with a PORV setpoint less than or equal to the maximum setpoint ensures that the nominal 13 EFPY for Unit 1 and 16 EFPY for Unit 2 Appendix G reactor vessel NDT limits."

Basis for proposed no significant hazards consideration determination: On June 25, 1990, the NRC staff, issued Generic Letter 90-06, "Resolution of Generic Issue 70, Power-Operated Relief Valve and Block Valve Reliability, and Generic Issue 94, Additional Low-Temperature Overpressure Protection for Light-Water Reactors, Pursuant to 10 CFR 50.54(f)." Changes requested by the licensee submittal related to Generic Issue 70 are outside the scope of this notice.

Generic Issue 94, "Additional Low-Temperature Overpressure Protection for Light-Water Reactors", involves the evaluation of the safety significance of low-temperature overpressure transients. The staff determined that LTOP protection systems unavailability is the dominant contributor to risk from low-temperature overpressure transients. Based on its studies, the staff proposed and required that all affected facilities implement TS improvements to increase the availability of LTOP systems. In response to GL 90-06, the licensee has proposed TS changes to its facilities to include a requirement to reduce the allowed out-of-service time (AOT) for a single LTOP channel from 7 days to 24 hours when the plant is operating in MODES 5 or 6.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because it will continue to provide redundant channels of LTOP protection and allows the additional use of one RHR SRV and one PORV for cold overpressure protection. The allowed out-of-service time in Modes 5 and 6 is reduced to 24 hours from 7 days when only one channel is available. These changes do not affect the probability of any initiating event. Therefore, the probability of any previously evaluated accident is not affected. Furthermore, cold overpressure protection will continue to be maintained in accordance with 10 CFR 50, Appendix G. Therefore, there is no effect on the consequences of any accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated because cold overpressure protection is maintained. No new modes of operation are involved, and no new failure modes will be created by the proposed change.

3.The proposed changes do not involve a significant reduction in the margin of safety because the limits of 10 CFR 50, Appendix G will continue to be met, as before, under the existing requirements. The allowed out-of-service time for the case where only one PORV or RHR SRV is available will be more restrictive under the proposed change, requiring corrective action or compensatory measures in 24 hours rather than 7 days. Therefore, there will be no reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30303-1810.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: November 18, 1991, as supplemented March 2, 1992. Additional changes requested by the licensee's submittal are outside the scope of this notice.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) 3/4.4.4, "Relief Valves," to include a requirement to maintain power to the associated block valves when closed, and to place the power-operated relief valves (PORV) in manual control when the block valves are not operable.

Specifically:

(1) TS 3.4.4, in the limiting condition for operation (LCO) statement, change "All power-operated relief valves (PORVs)" to "Both power-operated relief valves;>

(2) TS 3.4.4a, the action statement, change "With one or more PORV(s) inoperable" to "With one or both PORV(s) inoperable." Additionally, in action statement a., change "or close the associated block valve(s);" to "or close the associated block valve(s) with power maintained to block valve(s);"

(3) TS 3.4.4b, the action statement, change "With one or more PORV(s) inoperable to "With one or both PORV(s) inoperable;>

(4) TS 3.4.4b.2, the action statement, change "With no PORVs OPERABLE" to "With both PORVs inoperable;" and

(5) TS 3.4.4c, the action statement, replace the previous statement with the following: "With one or both block valve(s) inoperable, within 1 hour restore the block valve(s) to OPERABLE status or place its associated PORV(s) in manual control. Restore at least one block valve to OPERABLE status within the next hour if both block valves are inoperable; restore any remaining inoperable block valve to OPERABLE status within 72 hours; otherwise, be in at least HOT STANDBY within the next 6 hours and in HOT SHUTDOWN within the following 6 hours."

Additionally, TS Bases 3/4.4.4 would be revised to include the following: "The PORV(s) are equipped with automatic actuation circuitry and manual control capability. No credit is taken for accident mitigation by automatic PORV operation in the analyses for MODE 1, 2, and 3 transients. The PORV(s) are considered OPERABLE in either the manual or automatic mode. The automatic mode is the preferred configuration since pressure relieving capability is provided without reliance on operator action."

Basis for proposed no significant hazards consideration determination: On June 25, 1990, the NRC staff issued Generic Letter (GL) 90-06, "Resolution of Generic Issue 70, Power-Operated Relief Valve and Block Valve Reliability, and Generic Issue 94, Additional Low-Temperature Overpressure Protection for Light-Water Reactors, Pursuant to 10 CFR 50.54(f)." Changes requested by the licensee submittal related to Generic Issue 94 are outside the scope of this notice.

Generic Issue 70 involves the evaluation of the reliability of PORV(s) and block valves, and their safety significance in PWR plants. The generic letter discussed how PORVs are increasingly being relied on to perform safety-related functions and the corresponding need to improve the reliability of both PORVs and their associated block valves. Based on its studies, the NRC staff proposed and required that all affected facilities implement TS improvements to increase the reliability of these components and provide assurance they will function as required. In response to the GL 90-06, the licensee has proposed TS changes to its facilities to include a requirement to maintain power to closed block valves, and to place the power-operated relief valves in manual control when the block valves are not operable.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specification changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because maintaining power to the block valve is already allowed by the Technical Specifications and placing the PORVs in the manual mode will prevent opening of the PORV, which is equivalent to the action currently allowed by the Technical Specifications. This makes it easier for the operator to establish feed and bleed operations if necessary. The remainder of the changes are editorial.

2. The proposed Technical Specification does not create the possibility of a new or different kind of accident from any accident previously evaluated because there are no changes or modifications to the design of the plant. The only changes are operational in nature; e.g., keeping power maintained to the block valve, therefore, the types of accidents previously evaluated have not changed, and no new types of transients or accidents are introduced.

3. The proposed change does not involve a significant reduction in a margin of safety because the revised actions are equivalent or more restrictive than currently allowed by the Technical Specifications. Studies have shown that operating in accordance with the proposed Technical Specifications will result in a reduction in the probability of core melt, thus improving the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30303-1810.

NRC Project Director: David B. Matthews

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: June 30, 1992

Description of amendment request: The proposed change adds a statement, Technical Specification 4.13.A.2, that Northeast Nuclear Energy Company's (NNECO's) Inservice Inspection (ISI) Program shall be performed in accordance with the staff positions contained in Generic Letter (GL) 88-01 or its supplement. In addition, the proposed change deletes all references pertaining to hydrogen water chemistry (HWC) testing, since NNECO has discontinued hydrogen injection at Millstone Unit 1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10 CFR 50.92, NNECO has reviewed the proposed changes described above and has concluded that they do not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability of an accident previously evaluated.

The proposed change numbers the existing surveillance requirement as 4.13.A.1 and adds a statement (as 4.13.A.2) that NNECO's ISI Program shall be performed in accordance with the Staff positions contained in GL 88-01 or Supplement 1. There are no physical plant modifications associated with this change and approval is not being sought to reduce existing inspection requirements. Therefore, this change is administrative in nature and has no impact on the initiation or

consequences of an accident previously evaluated. Additionally, the aforementioned change does not increase the probability or consequences of a design basis accident nor does it affect the performance or failure probability or consequences of any safety systems. The addition of Surveillance Requirement 4.13.A.2 establishes a stronger administrative control of the existing Millstone Unit No. 1 [Intergranular Stress Corrosion Cracking] IGSCC Program. As such, this change has no affect on the initiation, probability, or consequences of any previously evaluated accident scenarios.

Additionally, since HWC testing has been discontinued and hydrogen injection will not be performed at Millstone Unit No. 1, the proposed change pertaining to HWC will delete all references to the allowance for increasing the trip setpoint of main steam line and steam tunnel radiation monitors prior to HWC testing. As such, this change maintains the existing setpoints and does not increase the probability or consequences of any design basis event previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change regarding GL 88-01 recommendations does not result in physical modifications of the plant response or operator response to an accident, and no new failure modes are associated with the change. Therefore, there is no change in plant response to any design basis event previously analyzed nor is a different kind of accident created.

With respect to the proposed change regarding HWC, maintaining the main steam line and steam tunnel radiation monitors at their existing setpoint (while deleting the allowance for increasing the trip setpoints prior to the HWC testing) will not create the possibility of a new or different kind of accident nor does this change impact plant response to any design bases accident previously analyzed.

3. Involve a significant reduction in the margin of safety.

The proposed change regarding GL 88-01 recommendations does not impact the consequences of an accident, no safety limits for the protective boundaries are impacted, and the basis for any technical specification is not changed since the proposed change would add a stronger administrative control than currently exists. Therefore, there is no reduction in the margin of safety associated with these changes.

The proposed change regarding HWC will remove trip setpoint allowances for the main steam line and steam tunnel radiation monitors which were allowed prior to hydrogen injection testing. The result is that the existing setpoints are maintained. Thus, there is no reduction in the margin of safety. In fact, the overall result is that the change is conservative since increasing the trip setpoints of the radiation monitors will no longer be allowed.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment request: July 13, 1992

Description of amendment request: The proposed amendment would (1) clarify the requirements of Technical Specification (TS) 3.8.A.1.a such that containment closure requirements during refueling are applicable only to lines which do not exit the containment into areas protected by operable automatic safeguards ventilation systems which actuate on high radiation and filter all releases to the environment through charcoal filters. The current wording of Specification 3.8.A.1.a is also confusing with respect to the requirements for automatic isolation valve operability and closure. Therefore, the wording of Specification 3.8.A.1.a would be also revised to be consistent with the guidance provided in the Standard Technical Specifications. Proposed change (2) to TS Sections 3.8 and 4.1 would clarify the requirements for operability and load testing of the fuel handling cranes. The location of the fuel crane load test requirements in Section 3.8.B leads to confusion with respect to how the requirements apply to the containment manipulator crane during core alterations. The proposed changes to Section 3.8 will provide specific operability requirements for both the spent fuel pool fuel handling crane and the manipulator crane. Additionally, the fuel handling crane load test requirements would be relocated to Table TS.4.1-2A. Specific load test surveillance requirements, with time limitations for the validity of the testing, would be specified for the spent fuel pool fuel handling crane and for the manipulator crane.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Change (1)

a.The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The requirements of Technical Specification 3.8.A.1.a are only intended to mitigate the consequences of an accident. Therefore, the proposed changes, which clarify the requirements for operability and closure of isolation valves during core alterations, have no impact on the probability of an accident.

Technical Specification 3.8.A.1.a is intended to mitigate the consequences of a fuel handling accident in the containment. The analysis of a fuel handling accident in containment, described in the Prairie Island Updated Safety Analysis Report, assumes the fission product release is transmitted untreated to the environment via a high capacity purge system. The proposed clarification of the requirements of Specification 3.8.A.1.a would allow fission product releases to the Auxiliary Building Special Ventilation Zone or Shield Building Annulus not allowed by the present interpretation of the Specification.

However, provided the associated safeguards ventilation systems are operable, any releases to the Auxiliary Building Special Ventilation Zone or Shield Building Annulus would be filtered prior to release to the environment and would result in offsite exposures that would be a small fraction of those resulting from the design basis fuel handling accident described in the Updated Safety Analysis Report.

Therefore, for the reasons discussed above, the proposed changes will not significantly affect the probability or consequences of an accident previously evaluated.

b.The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

There are no new failure modes or mechanisms associated with the proposed changes. The proposed changes do not involve any modification of plant equipment or any changes in operational limits. The proposed changes only modify and clarify a specification designed to mitigate the consequences of a fuel handling accident in the containment. The proposed clarification may affect the release path for fission products released during a fuel handling accident in containment, but no new or different kind of accident will result.

Therefore, for the reasons discussed above, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated, and the accident analyses presented in the Updated Safety Analysis Report will remain bounding.

c. The proposed amendment will not involve a significant reduction in the margin of safety.

Technical Specification 3.8.A.1.a is intended to mitigate the consequences of a fuel handling accident in the containment. The analysis of a fuel handling accident in containment, described in the Prairie Island Updated Safety Analysis Report, assumes the fission product release is transmitted

untreated to the environment via a high capacity purge system. The proposed clarification of the requirements of Specification 3.8.A.1.a would allow fission product releases to the Auxiliary Building Special Ventilation Zone or Shield Building Annulus not allowed by the present interpretation of the Specification.

However, provided the associated safeguards ventilation systems are operable, any releases to the Auxiliary Building Special Ventilation Zone or the Shield Building Annulus would be filtered prior to release to the environment and would result in offsite exposures that would be a small fraction of those resulting from the design basis fuel handling accident described in the Updated Safety Analysis Report. The margin of safety for the fuel handling accident in containment, as described in the Updated Safety Analysis Report, would be unaffected.

Therefore, for the reasons discussed above, the proposed changes will not result in any reduction in the plant's margin of safety.

Change (2)

a. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to the Prairie Island Technical Specifications are associated with the testing and operability of the cranes used for handling fuel. The incorporation of operability requirements for the subject cranes will help ensure that the cranes are capable of safely handling fuel and will reduce the risk of a fuel handling accident. As discussed above the proposed time limitations for the crane testing will balance the risk of operating the crane with an inoperable component with the risks associated with excessive testing and the probability of a fuel handling accident should not be significantly affected.

The analysis of a fuel handling accident inside containment, described in Section 14.5.1.4 of the Prairie Island Updated Safety Analysis Report, assumes the rupture of an entire fuel assembly. The resulting whole body and thyroid doses are well below the requirements of 10 CFR part 100. Even if the proposed changes were to result in the failure of a fuel handling crane and the dropping of a fuel assembly, the conservative fuel handling accident analysis will remain bounding. There will be no effect on the consequences of the fuel handling accident evaluated in the Updated Safety Analysis Report.

Therefore, the proposed changes will not significantly affect the probability or consequences of an accident previously evaluated.

b. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

There are no new failure modes or mechanisms associated with the proposed changes. The proposed changes do not involve any modification in operational limits.

The analysis of a fuel handling accident inside containment, described in Section 14.5.1.4 of the Prairie Island Updated Safety Analysis Report, assumes the rupture of an entire fuel assembly. Even if the proposed changes result in the failure of a fuel handling crane and the dropping of a fuel assembly, the conservative fuel handling accident analysis in the Updated Safety Analysis Report will remain bounding. No fuel handling accident not already addressed by the Updated Safety Analysis Report will result.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated, and the accident analyses presented in the Updated Safety Analysis Report will remain bounding.

c. The proposed amendment will not involve a significant reduction in the margin of safety.

The proposed changes to the Prairie Island Technical Specifications are associated with the testing and operability of the cranes used for handling fuel. The incorporation of operability requirements for the subject cranes will help ensure that the cranes capable of safely handling fuel and will reduce the risk of a fuel handling accident, thus increasing the plants margin of safety.

As discussed above the proposed time limitations for the crane testing will balance the risk of operating the crane with an inoperable component with the risks associated with excessive testing and the probability of a fuel handling accident, and thus the margin of safety, should not be significantly affected.

The analysis of a fuel handling accident inside containment, described in Section 14.5.1.4 of the Prairie Island Updated Safety Analysis Report, assumes the rupture of an entire fuel assembly. The resulting whole body and thyroid doses are well below the requirements of 10 CFR part 100. Even if the proposed changes were to result in the failure of a fuel handling crane and the dropping of a fuel assembly, the conservative fuel handling accident analysis will remain bounding. There will be no effect on the consequences of the fuel handling accident evaluated in the Updated Safety Analysis Report.

Therefore, the proposed changes will not result in any reduction in the plant's margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: L. B. Marsh

Philadelphia Electric Company, Docket No. 50-353, Limerick Generating Station, Unit 2, Montgomery County, Pennsylvania

Date of amendment request: July 7, 1992

Description of amendment request: The amendment would revise the Technical Specifications (TSs) to add new isolation valves to the table of primary containment isolation valves that must be operable and to delete the presently designated valves on the same lines. Limerick, Unit 2, is scheduled to shutdown for the second refueling outage on January 23, 1993. During the refueling outage, the licensee plans to install eight new check valves (four pairs of valves) on the control rod drive (CRD) supply headers to the hydraulic control units (HCUs). These new valves will constitute a new isolation boundary for the Integrated Leak Rate Test (ILRT), replacing the existing HCU isolation boundary valves. The proposed changes to the TS are to include the new valves in Table 3.6.3-1, "Part A - Primary Containment Isolation Valves" and to remove the current valve numbers for HCU boundaries. The same change was approved for Limerick, Unit 1, by Amendment Number 42, dated August 16, 1990.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The piping to be included within the new isolation boundary complies with the same standards and specifications as the original boundary. The number of active components making up the boundary will be reduced from approximately 1300 to four (4). Therefore, there will be no increase in the probability that the isolation boundary will be breached.

The current CRD isolation boundary includes the insert and withdraw lines, the scram discharge volume and the HCUs. The relocation of the boundary will add some of the supply header piping but will not affect the existing equipment. The added piping is small diameter (i.e., 2 inches or less) comparable to the previously analyzed scram discharge drain line. The consequences of a pipe failure inside the isolation boundary remain within the envelope analyzed in NUREG-0803. Therefore, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of

accident from any accident previously evaluated.

The proposed TS changes are intended to take credit for the newly installed isolation valves on the CRD common headers. These valves and associated piping are designed and installed in compliance with all applicable criteria. In addition, they will meet all performance requirements currently existing for the approximately 1300 HCU isolation boundaries. In effect, the only change will be to reduce the testable penetrations from 1300 to four (4). The proposed TS changes substitute one isolation boundary for another and therefore, cannot create a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

As discussed in items 1 and 2 above, the newly installed valves and associated piping meet all applicable design requirements.

In addition, the consequences of a pipe failure inside the isolation boundary remain within the envelope analyzed in NUREG-0803. The valves will be tested to ensure compliance with the existing performance requirements for isolation boundaries. Further, the performance of the CRD system with the added pressure drop is well within the system capability for normal operation, and control rod scram performance is unaffected. Therefore, the proposed changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V. P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: May 21, 1992

Description of amendment request: The proposed changes affect the expiration date of the Peach Bottom Atomic Power Station (PBAPS) Operating Licenses. Currently Peach Bottom Units 2 and 3 are licensed for operation for 40 years commencing with the January 31, 1968 issuance of their construction permits. Thus, both Operating Licenses will expire on January 31, 2008. Current NRC policy is to issue operating licenses for a 40 year period commencing with the date of issuance of the Operating Licenses.

Peach Bottom Unit 2 was issued a low power Operating License on August 8, 1973, with an expiration date of January 31, 2008. Accounting for the 5 years 6 months required for construction, this represents an effective operating period of approximately 34 years 6 months. Peach Bottom Unit 3 was issued a full power Operating License on July 2, 1974, with an expiration date of January 31, 2008. Accounting for the 6 years 5 months required for construction, this represents an effective operating period of approximately 33 years 7 months.

For Peach Bottom Units 2 and 3 the proposed amendment will change the Operating License expiration dates to provide for a full 40 years of operation for which the plants were designed. Accordingly, it is proposed that the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3 Operating Licenses be amended to change the expiration dates to reflect a 40-year license period that commences with the issuance of the Operating License rather than a 40-year license period that commences with the issuance of the Construction Permit. The amended expiration dates will then become August 8, 2013 for Unit 2 and July 2, 2014 for Unit 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

i) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

This determination is based primarily on the fact that a 40-year service life was considered during the design and construction of the plant. Although this does not mean that some components will not wear out during the plant lifetime, design features were incorporated which maximize the inspectability of structures, systems and equipment. Surveillance and maintenance practices that are implemented in accordance with the Code of Federal Regulations, ASME standards and the facility Technical Specifications ensure that PBAPS Units 2 and 3 will continue to operate as designed. In addition, these programs provide assurance that unexpected degradation in plant equipment will be identified and corrected. The reactor vessel and its internals were designed for forty (40) years of operation at full power with an 80% capacity factor (32 effective full power years). The reactor vessel surveillance capsules program provides a means of monitoring the radiation induced changes in the mechanical and impact properties of vessel materials in accordance with 10 CFR 50 Appendix H. This program provides additional assurance that adverse cumulative effects of power operation can be monitored and detected.

Aging analyses and Environmental Qualifications [EQ] have been performed for all electrical equipment important to safety in accordance with the requirements of Environmental Qualification Rule 10 CFR 50.49. This program included identification of qualified lifetimes for the required equipment and incorporation of maintenance requirements into appropriate plant procedures to maintain the qualification of the required equipment for the life of the plant. This qualification program provides assurance that electrical equipment important to safety will function as required if called upon to mitigate design basis events, regardless of the term of the license.

Safety-related mechanical equipment has been specifically addressed through the use of the Inservice Inspection (ISI) and Inservice Testing (IST) Programs. The ISI and IST programs, in conjunction with the above referenced programs, assure that mechanical equipment will be properly maintained throughout the life of the plant.

In summary, the requested amendment to the Operating Licenses is administrative in nature and will neither increase or decrease the probability or consequences of an accident previously evaluated. The accident analyses have been performed on the basis of a 40 year plant operating life. The probability and consequences of the accidents previously evaluated are not affected by this proposed license extension since the assumptions used for the accident analysis do not change. The interrelated programs at PBAPS, like those discussed previously, further assure that the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

ii) The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed amendment involves only a change in the expiration date of the Operating Licenses. No safety analyses are affected. No new or different accident type is created.

iii) The proposed changes do not involve a significant reduction in a margin of safety.

The proposed amendment involves only a change in the expiration dates of the Operating Licenses. As discussed above, inspection, maintenance and surveillance practices of the PBAPS ISI, IST, EQ and maintenance programs ensure that structures, systems, and components will be refurbished and/or replaced, as necessary, to maintain the margins of safety required by the Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the

amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V. P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: Charles L. Miller

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: May 28, 1992; modified July 14, 1992 (TS 92-06)

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 6.2.3.4 to reflect a restructuring of the Nuclear Power organization by changing the title of the manager to whom the Independent Safety Engineering personnel report from the Manager of Nuclear Managers Review Group to Manager, Nuclear Experience Review/ Independent Safety Engineering. By letter dated May 28, 1992, the licensee had proposed similar TS changes which were noticed in the Federal Register on July 8, 1992 (57 FR 30262). A proposed change to TS 6.3 would replace the references to the fact that the facility staff qualifications are specified in ANSI N18.1-1971, the March 28, 1980 NRC letter, and Regulatory Guide 1.8, with reference to TVA's Nuclear Qualification Assurance Plan. A similar change is proposed to TS 6.4 that would replace the retraining and replacement training program references to ANSI N18.1-1971, Appendix A of 10 CFR part 55, and the March 28, 1980 NRC letter, with reference to TVA's Nuclear Quality Assurance Plan. Another proposed change would replace the title of the Quality Engineering and Monitoring Supervisor PORC member to Quality Audit and Monitoring Manager in TS 6.5.1.2. In addition, TS 6.10.2.i would change the title of the Nuclear Quality Assurance Manual to Nuclear Quality Assurance Plan.

Basis for proposed no significant hazards consideration determination: Asrequired by 10 CFR 50.91(a), the licensee has provided its analysis of the issues of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed title change of the corporate official to whom Independent Safety Engineering (ISE) makes recommendations has no effect on the safe operation of SQN. This change is administrative in nature and serves to reflect recent organizational changes within TVA's Nuclear Power program. The proposed change to Specifications 6.3.1 and 6.4.1 reflects consistency with the Nuclear Quality Assurance Plan and current regulatory guidance. The proposed changes to Specifications 6.5.1.2 and 6.10.2i are nomenclature and title changes only. Since the proposed amendment will not result in any changes to hardware, operating procedures, or accident analyses, the probability or consequences of an accident previously evaluated have not been increased.

(2) Create the possibility of a new or different kind of accident from any previously analyzed. The proposed change to Specification 6.2.3.4 provides a change in the title of the corporate official to whom ISE makes recommendations. This change is an administrative change that reflects realignment of the management structure within TVA's Nuclear Power organization. The proposed change to Specifications 6.3.1 and 6.4.1 reflects consistency with the Nuclear Quality Assurance Plan and current regulatory guidance. The proposed changes to Specifications 6.5.1.2 and 6.10.2i are nomenclature and title changes only. The proposed amendment does not involve a physical change to the facility; therefore, no new or different kind of accident is created.

(3) Involve a significant reduction in a margin of safety. The proposed revision to administrative Specification 6.2.3.4 reflects recent restructuring within TVA's Nuclear Power organization. This change in no way affects the physical facility design or safe operation of SQN. The function of ISE continues to conform with NUREG-0737 guidance for performing independent review of plant activities. The proposed change to Specifications 6.3.1 and 6.4.1 reflects consistency with the Nuclear Quality Assurance Plan and current regulatory guidance. The proposed changes to Specifications 6.5.1.2 and 6.10.2i are nomenclature and title changes only. Because compliance with the regulatory requirements has not been compromised and because these changes did not alter the facility or its design, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library,1101 Broad Street, Chattanooga, Tennessee 37402

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET llH, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: May 27, 1992, as supplemented by letter dated July, 9, 1992.

Description of amendment request: This amendment would revise the Technical Specifications (TS) in Section 3.1.b, "Heatup and Cooldown Limit Curves for Normal Operation," and would revise Figures TS 3.1-1 and TS 3.1-2. The proposed amendment would include new heatup and cooldown limit curves for the Kewaunee Nuclear Power Plant (KNPP). Administrative changes are also being proposed dealing with format, typographical and other inconsistencies in both the TS and the TS bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant hazards consideration because operation of the KNPP in accordance with this change would not significantly increase the probability or consequences of an accident previously evaluated. The revised heatup and cooldown limit curves were prepared using methods derived from the ASME Boiler and Pressure Vessel Code and the criteria set forth in NRC Regulatory Standard Review Plan 5.3.2. Utilization of the revised heatup and cooldown limit curves ensures adequate fracture toughness requirements for ferritic materials of the pressure-retaining components of the reactor coolant boundary. These limit curves provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests. Radiological off-site exposures from normal operation and operational transients, and faults of moderate frequency do not exceed the guidelines of 10 CFR 100. With the preparation of the limit curves in accordance with the latest criteria and guidance, there is no significant hazards concern for any postulated change in the probability or consequences of an accident previously evaluated in the Kewaunee USAR.

2. The proposed change will not create the possibility of a new or different type of accident from any previously analyzed. The revised heatup and cooldown curves do not create the possibility of a new different type of accident. The curves were prepared in

accordance with regulatory requirements and require plant operation within more limiting requirements to allow operation to 20 EFPY instead of 15 EFPY. Thus, no new or different type of accident has been created.

3. The proposed change will not significantly reduce the margin of safety as defined in the basis for any Technical Specification. The revised heatup and cooldown limit curves were prepared using methods derived from the ASME Boiler and Pressure Vessel Code, NRC Regulatory Guide 1.99, Revision 2. The safety factors and margins used in the development of the limit curves meet the criteria set forth by these documents. The bias which was applied to the neutron exposure projections accounts for differences observed between cycle specification calculations and the results of neutron dosimetry obtained from removed surveillance capsules from the Kewaunee reactor vessel. Application of low leakage core designs decreases the rate of shift in transition temperature from ductile to nonductile behavior. The affect of the updated copper and nickel content is more conservative than that used to develop the current limit curves. The revised limit curves provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests. Radiological off-site exposures from normal operation and operational transients, and faults of moderate frequency do not exceed the guidelines of 10 CFR 100. With the preparation of the limit curves in accordance with the latest criteria and guidance, there is not a significant reduction in the margin of safety.

The proposed amendment includes administrative changes as a result of the conversion of Section 3.1 to Word Perfect format, and are necessary to correct minor typographical errors and format inconsistencies. They do not change the intent of the Technical Specifications or decrease WPSC's management support or involvement in activities at the Kewaunee Plant.

Therefore, the proposed changes pose no significant hazards for the following reasons:

1. The proposed changes will not result in a significant increase in the probability of occurrence or consequences of an accident.

2. The proposed changes will not create the possibility of a new or different kind of accident from any previously analyzed.

3. The proposed changes will not involve a significant decrease in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P. O. Box 2193 Orlando, Florida 31082.

NRC Project Director: John N. Hannon

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 11, 1992

Description of amendment request: The proposed amendment of Technical Specification 4.8.1.1.2 removes the numerical value of 1352 kW associated with the verification of the emergency diesel generators capability to reject the largest single load, the Essential Service Water Pump Motor, while maintaining required voltage and frequency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Position C.5 of Regulatory Guide 1.9, Revision 1, states that during recovery from transients caused by disconnection of the largest single load, the speed of the diesel generator unit should not exceed the nominal speed plus 75 percent of the difference between nominal speed and the overspeed trip setpoint or 115 percent of nominal whichever is lower. The numerical value for the largest single load (for Wolf Creek Generating Station this is the Essential Service Water (ESW) pump motors) is not needed to comply with this requirement and was conservatively generated during the time when the diesel generators were being selected. The actual load for the ESW pump motors is less than the 1352 kW load listed in the Technical Specifications. As discussed in Regulatory Guide 1.9, after the operating license stage of review the consideration of a somewhat less conservative approach is permitted, such as operation with safety loads within the short-time rating of the diesel generator unit.

Since no new design requirements are being imposed and the change only clarifies how Wolf Creek Nuclear Operating Corporation complies with Regulatory Guide 1.9, Revision 1, the proposed changes do not significantly increase the probability of any accident or equipment malfunction previously evaluated, and there will be no significant increase in the consequences of an accident or equipment malfunction previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

As stated above, the proposed change does not involve any design changes, hardware modifications, or change to the intended manner of plant operation. Thus this proposed change does not create the possibility for an accident or malfunction of a new or different type than any previously evaluated in the USAR [Updated Safety Analysis Report].

3. The proposed change does not involve a significant reduction in the margin of safety.

The Bases for Technical Specification 3/4.8.1 refer to Regulatory Guides 1.9 and 1.108 with regard to surveillance requirements. The requirements to test for the loss of the single largest load will continue to be satisfied given the approval of this amendment request. No safety limits or limiting safety system settings are being changed. Therefore, this proposed change does not involve a significant reduction in the margin of safety as defined in the Bases for 3/4.8.1.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N. W., Washington, D. C. 20037

NRC Project Director: Suzanne C. Black

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 11, 1992

Description of amendment request: The purpose of the proposed Technical Specification changes is to revise Section 4.4 in accordance with recommendations of Generic Letter 91-01, "Removal of the Schedule for the Withdrawal of Reactor Vessel Material Specimens from Technical Specifications."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The placement of this schedule in the technical specifications duplicate the controls on changes to this schedule that have been established in Section II.B.3 of

Appendix H to 10 CFR part 50. Therefore, removal of this schedule from the technical specifications does not decrease control of the schedule or affect plant equipment.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. These changes do not involve any change to the installed plant systems or the overall operating philosophy of WCGS [Wolf Creek Generating Station].

3. The proposed change does not involve a significant reduction in the margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety. This is based on the fact that the reactor vessel surveillance specimen withdrawal schedule is controlled by the requirements of 10 CFR 50, Appendix H. The removal of Table 4.4-5 and associated references from the technical specifications is purely administrative and does not impact any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N. W., Washington, D. C. 20037

NRC Project Director: Suzanne C. Black

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 19, 1992

Description of amendment request: The purpose of the proposed Technical Specification changes is to revise Section 6.8 to clarify the approval process for plant procedures. An editorial correction to Section 3.3 and a position title change in Section 6.5.1.2 are also being proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The clarification of the wording for the approval process for plant procedures does not change the method of approval or the intent of the process. Therefore approval of plant procedures continues to be given by cognizant individuals and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Changes to a technical specification to reflect the relocation of the RETS [Radiological Effluent Technical Specifications] to the ODCM [Offsite Dose Calculation Manual] does not change requirements or reduce the clarity of the specification.

The information is readily available in the ODCM and the placement of this information in the ODCM has already been approved by the U.S. Nuclear Regulatory Commission in License Amendment 42.

The change to one of the position titles listed in Section 6.5.1.2 does not involve any change in the current membership of the Plant Safety Review Committee. This title change reflects a restructuring of the engineering support function to provide increased emphasis on engineering support for issues related to plant operation and maintenance.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

These changes do not involve any change to the installed plant systems or the operating procedures of WCGS [Wolf Creek Generating Station]. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

Clarifying the intent of the approval process for plant procedures does not change the method of approval or the process by which they are reviewed to ensure the safety of the public and the plant. The editorial correction to Section 3.3 and the change to a position title in Section 6.5.1.2 are administrative in nature and do not impact any margin of safety. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N. W., Washington, D. C. 20037

NRC Project Director: Suzanne C. Black

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station (YNPS), Franklin County, Massachusetts

Date of amendment request: July 8, 1992

Description of amendment request: The proposed amendment would revise the Administrative Controls Technical Specifications regarding staff qualifications, Plant Operations Review Committee, and reporting requirements in order to reflect the permanently shutdown and defueled condition of the facility.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

These changes are administrative in nature and are necessary to reflect organizational changes at YNPS as it transitions into decommissioning. The changes described above will provide for the realignment of management resources for improved supervisory control of plant activities and improve the clarity and readability of the Technical Specifications. As such, these changes will not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated. The administrative nature of the changes will not affect safety-related systems or components and, therefore, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different accident from any previously evaluated. The changes described in this proposed change do not modify any plant systems or components and will not create the possibility of a new or different accident from any previously evaluated.

3. Involve a significant reduction in the margin of safety. This proposed change contains staffing and organizational changes that are consistent with existing personnel qualifications and staffing practices and will not involve a significant reduction in a margin of safety.

Based on the above considerations contained herein, it is concluded that there is reasonable assurance that maintenance of YNPS in a permanently shutdown and defueled condition, consistent with the proposed change, will not endanger the health and safety of the public. This proposed change has been reviewed by the PORC and the Nuclear Safety Audit and Review Committee.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Seymour H. Weiss

Previously Published Notices Of Consideration Of Issuance Of Amendments To Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration. For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, York County, South Carolina

Date of amendment request: April 13, 1992, as supplemented July 8, 1992

Description of amendment request: The proposed amendments would change the Technical Specifications for the Unit 1 Cycle 7 reload. Date of publication of individual notice in **Federal Register:** July 21, 1992 (57 FR 32240)

Expiration date of individual notice: August 20, 1992

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Notice Of Issuance Of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al., Docket No. STN 50-530, Palo Verde Nuclear Generating Station, Unit 3, Maricopa County, Arizona

Date of application for amendment: December 20, 1991

Brief description of amendment: The amendment allows the use of 80 fuel rods clad with advanced zirconium - based alloys other than Zircaloy-4 in two fuel assemblies during Cycles 4, 5, and 6 for in-reactor performance evaluation.

Date of issuance: July 20, 1992

Effective date: July 20, 1992

Amendment No.: 35

Facility Operating License No. NPF-74: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 19, 1992 (57 FR 6034)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 20, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: March 25, 1992, as supplemented on May 28, 1992.

Brief description of amendments: The amendments revise the Calvert Cliffs Technical Specifications (TS) for both units to provide conditions under which the steam generator inspection intervals may be extended to 30 months in accordance with the guidance provided in Generic Letter (GL) 91-04. In addition, a one-time variance (Unit 2 only) is granted to allow an inspection of 15 percent of the steam generator tubes in lieu of the required 20 percent with results in the C-1 Category when extending the inspection frequency beyond 24 months. This variance is only applicable for the remainder of cycle 9 operation of Unit 2 which is scheduled to end in the spring of 1993.

Date of issuance: July 13, 1992

Effective date: July 13, 1992

Amendment Nos.: 173 and 150

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 29, 1992 (57 FR 18170)The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated July 13, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: April 8, 1992

Brief description of amendment: This amendment revises the surveillance interval for local leak rate testing of main steam isolation valves and personnel air lock door seals.

Date of issuance: July 15, 1992

Effective date: July 15, 1992

Amendment No.: 142

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 13, 1991 (57 FR 20509)The Commission's related evaluation of the

amendment is contained in a Safety Evaluation dated July 15, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: January 7, 1991, as supplemented April 16, 1992, and June 4, 1992

Brief description of amendment: The amendment modifies the Technical Specifications (TS) having cycle-specific parameter limits by replacing the value of those limits with a reference to a Core Operating Limits Report (COLR) containing the values of those limits. The amendment also changes the TS to include the COLR in the Definitions section and the reporting requirements in the Administrative Controls section.

Date of issuance: July 15, 1992

Effective date: July 15, 1992

Amendment No. 141

Facility Operating License No. DPR-23. Amendment revises the TS.

Date of initial notice in **Federal Register:** February 20, 1991 (56 FR 6868)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1992.The April 16, 1992, and June 4, 1992, submittals contained clarifying information and updated TS pages to reflect recent amendments and did notchange the initial no significant hazards consideration published in the **FEDERAL REGISTER.**

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: January 30, 1992

Brief description of amendment: The requested changes would increase the frequency of monitoring reports issued by the National Weather Service and the National Hurricane Center upon receipt of Hurricane Warnings for the mid-Atlantic coast of the United States. The changes would also delete the requirement to be in the hot shutdown condition within 4 hours of receipt of a Hurricane Warning for a hurricane with winds in excess of 87 knots within 320 nautical miles of the facility with a Hurricane Warning in effect for any coastal area south of Indian Point or any coastal area east of Indian Point, as far east as New Haven, Connecticut.

Date of issuance: July 15, 1992

Effective date: July 15, 1992

Amendment No.: 156

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 18, 1992 (57 FR 9440) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: February 3, 1992

Brief description of amendment: This amendment revises the Palisades Technical Specifications (TS) to delete a surveillance test requirement which is no longer appropriate following modifications to the Reactor Protection System (RPS). Additionally, format and editorial changes were made to Section 2.0 of the TS to enhance clarity. A revised Basis was also submitted to correct an error and clarify the discussions dealing with three pump operation.

Date of issuance: July 15, 1992

Effective date: July 15, 1992

Amendment No.: 150

Facility Operating License No. DPR-20. The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** March 18, 1992 (57 FR 9441)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1992.No significant hazards consideration comments received: No.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: June 13, 1991, as supplemented November 6, 1991.

Brief description of amendment: This amendment replaces TS 3.6.2.2 for the spray additive system with a new TS 3.6.2.2 for the containment emergency sump pH control system.

Date of issuance: July 23, 1992

Effective date: As of the start of the Cycle 9 mid-cycle outage

Amendment No.: July 23, 1992

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33955).The November 6, 1991 letter provided supplemental information which did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 23, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: February 13, 1992

Brief description of amendment: This amendment changes the upper limit for boron concentration in the borated water storage tank from 2,450 ppm to 3,000 ppm. The lower limit remains unchanged.

Date of issuance: July 23, 1992

Effective date: As of the start of the Cycle 9 mid-cycle outage

Amendment No.: 146

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 1, 1992 (57 FR 11109)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 23, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: December 17, 1991

Brief description of amendment: This amendment revises Technical Specification Section 3.1.1.4.c., "Moderator Temperature Coefficient" (MTC) by changing the MTC value from -27 pcm/oF to -30 pcm/oF.

Date of issuance: July 15, 1992

Effective date: July 15, 1992

Amendment No.: 56

Facility Operating License No. NPF-16: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 5, 1992 (57 FR 4487)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1992.No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: April 21, 1992

Brief description of amendments: These amendments remove reference to a continuous hydrogen monitor that is not part of the plant design, and add a requirement for determining the hydrogen concentration by gas partitioner grab sample. These changes apply to Technical Specifications Section 3/4.11.2.5, Explosive Gas Mixture.

Date of issuance: July 23, 1992

Effective date: July 23, 1992

Amendment Nos.: 116 and 57

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 27, 1992 (57 FR 22263) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 23, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: December 20, 1991

Brief description of amendment: The amendment revised the Technical Specifications (TS) in accordance with the requirements of Generic Letter 89-01 by: (1) Incorporating programmatic controls in the Administrative Controls section of the Technical Specifications that satisfy the requirements of 10 CFR 20.106, 40 CFR part 190, 10 CFR 50.36a, and Appendix I to 10 CFR part 50; (2) relocating from the TS to the Offsite Dose Assessment Manual (ODAM) procedural details or specific requirements in the current Technical Specifications involving radioactive effluent monitoring instrumentation, the control of liquid and gaseous effluents, equipment requirements for liquid and gaseous effluents, radiological environmental monitoring, and radiological reporting details; (3) relocating from the TS to the Process Control Program (PCP) procedural details or specific requirements on solid radioactive wastes; (4) simplifying the associated reporting requirements; (5) simplifying the administrative controls for changes to the ODAM and PCP; (6) adding record retention requirements for changes to the ODAM and PCP; and (7) updating the definitions of the ODAM and PCP consistent with these changes.

Date of issuance: July 22, 1992

Effective date: July 22, 1992

Amendment No.: 184

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 15, 1992 (57 FR4488)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401.

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: April 3, 1992, as supplemented on May 18, 1992.

Brief description of amendment: This amendment deletes a condition of the Facility Operating License that has been satisfied, and revises a previous License amendment by removing "740-acre" from the site description.

Date of issuance: July 21, 1992

Effective date: July 21, 1992

Amendment No.: 131

Facility Operating License No. DPR-36: Amendment revised the Operating License.

Date of initial notice in Federal Register: May 13, 1992 (57 FR 20513)The Commission's related evaluation of the amendment is contained in a Safety Evaluation, dated July 21, 1992 and Environmental Assessment and Finding of No Significant Impact, dated July 17, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: January 30, 1992

Brief description of amendment: The amendment changes the Technical Specification by deleting the surveillance requirement (Section 4.5.2.C.1) associated with the Shutdown Cooling System (SDCS) auto closure interlock (ACI) concurrent with the deletion of ACI circuitry.

Date of issuance: July 24, 1992

Effective date: July 24, 1992

Amendment No.: 161

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: March 18, 1992 (57 FR 9446)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Northern States Power Company, Docket No. 50-263, Monticello NuclearGenerating Plant, Wright County, Minnesota

Date of application for amendment: April 15, 1992

Brief description of amendment: This amendment consists of changes to the Technical Specifications (TS) in response to your application dated April 15, 1992. The amendment revises the TS to reflect the "line item" improvements of Generic Letter 90-09 relating to snubber visual inspection intervals.

Date of issuance: July 15, 1992

Effective date: July 15, 1992

Amendment No.: 82

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 13, 1992 (57 FR 20514) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1992.No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: October 4, 1991, as supplemented December 16, 1991.

Brief description of amendments: The amendments revise Technical Specification Sections 3.8.B and its associated Bases to remove the restriction related to cask handling; add a new Section 4.19 and associated Bases which establish surveillance requirements for the Auxiliary Building crane lifting devices; and revise Section 5.6 to remove references to the spent fuel cask drop analysis and mitigation design features, and incorporate a new paragraph which states that spent fuel casks will be handled by a single-failure-proof handling system.

The amendments also make several changes of an administrative nature in Technical Specification Sections 3.8.B, 5.6 and in Table TS 4.1-2B in order to accommodate the Prairie Island Independent Spent Fuel Storage Installations (ISFSI) and to discuss the Bases for spent fuel boron requirements to maintain the boron concentration level, provide an action statement if boron concentration falls below required levels, and require a weekly verification of the boron concentration.

Date of issuance: July 9, 1992

Effective date: July 9, 1992

Amendment Nos.: 99 and 92

Facility Operating License Nos. DPR-42 and DPR-60. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 27, 1991 (56 FR 60118).The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: May 21, 1992

Brief description of amendment: This amendment would make changes to the Unit 1 Technical Specifications to correct the flow dependent MCPR Operating Limits to be consistent with the licensee's NRC-approved methodology.

Date of issuance: July 14, 1992

Effective date: July 14, 1992

Amendment No.: 122

Facility Operating License No. NPF-14: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 10, 1992 (57 FR 24675)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 14, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 21, 1992

Brief description of amendment: The amendment to the James A. FitzPatrick Technical Specifications (TS) reflects changes to Table 4.2-1 entitled, "Minimum Test and Calibration Frequency for Primary Containment Isolation Systems (PCIS)," which resulted from a plant modification which deactivated the reactor vessel head spray mode of the Residual Heat Removal (RHR) system. This modification involved the elimination of the reactor vessel head spray function by removing and capping portions of the head spray piping and associated valves. The head spray is an optional capability and credit is not taken for it in the accident analysis.

Date of issuance: July 13, 1992

Effective date: July 13, 1992

Amendment No.: 182

Facility Operating License No. DPR-59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 10, 1992 (57 FR 24676)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 13, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: April 10, 1992

Brief description of amendment: The amendment revised Environmental Technical Specifications, Part II, Section 2.7 (Radiological Environmental Monitoring Program) and Section 3.7 (Radiological Environmental Monitoring Program Surveillance Requirements). These sections were revised to specify lower limits of detection (LLD) and reporting requirements for iodine-131 in environmental samples of non-drinking water. In addition, the amendment corrected an administrative error in Section 3.7 and Tables 2.7-2 and 3.7-1 have been reformatted for consistency.

Date of issuance: July 9, 1992

Effective date: July 9, 1992

Amendment No.: 123

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 27, 1992 (57 FR 22265) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 9, 1992No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: June 11, 1990, as supplemented June 18, 1991, and February 11, 1992.

Brief description of amendment: The amendment extends the expiration date of the facility operating license from August 13, 2009, to December 12, 2015.

Date of issuance: July 15, 1992

Effective date: July 15, 1992

Amendment No.: 124

Facility Operating License No. DPR-64: Amendment revised the operating license.

Date of initial notice in **Federal Register:** July 11, 1990 (55 FR 28482) The June 18, 1991, February 11, 1992, and May 13, 1992, submittals provided additional clarifying information which did not change our initial proposed no significant hazards considerations determination. The Commission prepared an Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on July 7, 1992 (57 FR 29904). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 15, 1992. No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: November 27, 1991

Brief description of amendment: The amendment revises TS Table 6.2-1 to permit an individual with a valid Senior Reactor Operator (>SRO") license and who is qualified as a Shift Technical Advisor (>STA") to assume the control room command function during and absence of the Shift Supervisor (>SS") from the control room.

Date of issuance: July 17, 1992

Effective date: July 17, 1992

Amendment No.: 71

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 4, 1992 (57 FR 7816)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 17, 1992. No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: December 27, 1991

Brief description of amendment: This amendment reinstates the surveillance frequency required for testing the automatic closure of primary containment isolation valves.

Date of issuance: July 21, 1992

Effective date: July 21, 1992

Amendment No. 134

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 22, 1992 (57 FR 2603)The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 21, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: May 15, 1992

Brief description of amendment: Replaces the 10 CFR part 55 licensed operator program with an NRC approved Certified Fuel Handler Training Program.

Date of issuance: July 22, 1992

Effective date: July 22, 1992

Amendment No.: 141

Facility Operating License No. DPR-3: Amendment revised the Technical Specifications.Date of initial notice in **Federal Register**: June 10, 1992, (57 FR 24680). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 22, 1992.No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Dated at Rockville, Maryland, this 28th day of July 1992.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation

[Doc. 92-18386 Filed 8-4-92; 8:45 am]

BILLING CODE 7590-01-F

[Docket No. 50-346]

Toledo Edison Co., et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-3 issued to Toledo Edison Company, Centerior Service Company, and the Cleveland Electric Illuminating Company (the licensee) for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 located in Ottawa County, Ohio.

The proposed amendment would revise Technical Specification (TS) 3/4.1.3.1, "Group Height—Safety and Regulating Rod Groups," and TS 3/4.1.3.3, "Position Indicator Channels." The revision would make administrative changes to the TS 3/4.1.3.1 Action statement to clarify the proper progression of the Action statement. TS 3/4.1.3.3 would be revised to clarify the applicability of the Action statement, and to allow startup or power operation to continue provided the absolute position indicator channels are operable for the affected control rods.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy of 1954, as amended (the Act) and the Commission's regulations.

By September 4, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document room located at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board Panel will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent to the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the

first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the basis of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-800 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John N. Hannon: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037 attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a detemination by the Commission, the presiding officer or the Atomic Safety and Licensing board Panel that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated April 30, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at The University of Toledo Library, Document Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 28th day of July 1992.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Acting Director, Project Directorate III-3, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92-18525 Filed 8-4-92; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Grants and Cooperative Agreements With State and Local Governments

AGENCY: Office of Federal Financial Management, Office of Management and Budget.

ACTION: Proposed revision to OMB Circular A-102.

SUMMARY: This Notice offers interested parties an opportunity to comment on four proposed changes to Office of Management and Budget (OMB) Circular A-102, "Grants and Cooperative Agreements with State and Local Governments," dated March 3, 1988. The Circular contains guidance to the Federal agencies on grants management issues.

DATE: Comments must be in writing and must be received by [60 days]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent to the Office of Management and Budget, 10235 New Executive Office Building, Washington DC 20503.

FOR FURTHER INFORMATION CONTACT: Palmer Marcantonio, Office of Federal Financial Management, Office of Management and Budget, (202) 395-3993.

SUPPLEMENTARY INFORMATION: The President's Council on Management Improvement (PCMI) established an interagency task force to review existing guidance for managing Federal assistance programs. On March 12, 1987, the President directed OMB to revise OMB Circular A-102, "Grants and Cooperative Agreements with State and Local Governments," and all affected Federal agencies to adopt a common rule that would provide uniform governmentwide grants management terms and conditions, except where inconsistent with statutory requirements. The proposed, revised Circular and common rule were published for public comment on June 9, 1987 (52 FR 21816-21852). On March 11, 1988, both the revised Circular (issued March 3, 1988) and the final common rule were published (53 FR 8027-8103). The Circular was immediately effective; the common rule did not become effective until October 1, 1988.

Concurrent with the revision of OMB Circular A-102, the PCMI directed a similar revision of OMB Circular A-110, "Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations." In the November 4, 1988, **Federal Register** it was proposed to merge the Circular A-110 requirements with the Circular A-102 requirements and to expand the common rule that initially only applied to governmental grantees to encompass both governmental and nongovernmental grantees. Based on the comments received OMB and the Federal agencies decided neither to merge these two Circulars nor to expand the common rule. Therefore, this proposal only includes updates to Circular A-102.

Summary of Proposed Changes

The proposed changes reference three statutory provisions enacted and an

Executive Order (EO) issued since March 1988. These changes include:

- A requirement that encourages recipients of federally-funded grants and cooperative agreements to use the metric system of measurement in their assistance programs.
- A reference to the Department of the Treasury's regulations to implement the Cash Management Improvement Act of 1990.
- A requirement that State and local governments comply with section 6002 of the Resource Conservation and Recovery Act (RCRA).
- A requirement that Federal agencies comply with Executive Order 12803 "Infrastructure Privatization."

Proposed Changes

Under section 6, *Pre-Award Policies,*

- Add a paragraph j. to read: j. *Metric System of Measurement.* The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), states a policy preference for the use of the metric system of measurement, except where the use of that system is impractical or likely to cause significant inefficiencies in the accomplishments of federally-funded activities. Accordingly, it is national policy to encourage recipients and subrecipients of federally-funded grants and cooperative agreements to use the metric system of measurement in their grant activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

Under section 7, *Post Award Policies,*

- Amend paragraph a. *Cash Management,* subparagraph (1) to read: Such transfers shall be made consistent with program purpose, applicable law and Treasury regulations contained in 31 CFR part 205, Federal Funds Transfer Procedures.
- Add paragraph h. to read: h. *Resource Conservation and Recovery Act.* Agencies shall implement the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Under the Act, any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with section 6002 of the Act. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA). Current guidelines are contained in 40 CFR 247–254. State and local recipients of grants, loans, cooperative agreements or other instruments funded by appropriated Federal funds shall give preference in procurement programs to the purchase of recycled products pursuant to the EPA guidelines.
- Add a paragraph g. to read: g. *Infrastructure Privatization.* Agencies shall perform those actions as provided in section 3 of Executive Order 12803 "Infrastructure Privatization." These actions include reviewing and modifying procedures affecting the management and disposition of federally financed infrastructure assets owned by State and local governments, assisting State and local governments, and approving State and local governments' requests to privatize infrastructure assets, consistent with the criteria in section 4 of the Order.

Additionally, by February 28, 1993, agencies shall submit a report to OMB on those privatization activities performed during the preceding year.

James Murr,

Associate Director for Legislative Reference and Administration.

[FR Doc. 92–18486 Filed 8–4–92; 8:45 am]

BILLING CODE 3110–01–M

THE PRESIDENTIAL COMMISSION ON THE ASSIGNMENT OF WOMEN IN THE ARMED FORCES

Meeting

SUMMARY: The Presidential Commission on the Assignment of Women in the Armed Forces will hear testimony in Los Angeles on August 6th through 8th. Presentations will be made by experts on sociological and cultural issues, theologians, and representatives from the Army, Navy, Marines, and Coast Guard on policies pertaining to the assignment of women in the military. Prospective witnesses also include entertainers and advocates who have an interest in military issues. Additionally, two panels of the Commission's four Fact Finding Panels will meet in Los Angeles to discuss women's roles in the Armed Forces.

LOCATION: Century Plaza Hotel and Towers, Pacific Palisades Room/ California Level, 2025 Avenue of the Stars, Century City, Los Angeles, CA 90067, (301) 277–2000.

DATES: Wednesday, August 5th, 1 p.m. to 5 p.m., Panel 3 meeting, Senators Board Room/Mezzanine Level.

Thursday, August 6th & Friday, August 7th, 8 a.m. to 6:15 p.m./General Session.

Saturday, August 8th, 8 a.m. to 12 p.m./General Session, Panels 1, 3, & 4 (Rooms to be announced].

NOTE: In addition to the Los Angeles hearing, The Presidential Commission on the Assignment of Women in the Armed Forces has scheduled the next regional hearing: Dallas, August 27th–29th, Fairmont Hotel at the Dallas Arts District, 1717 N. Akard Street, Dallas, Texas 75201, (214) 720–5223.

STATUS: Open to Public.

CONTACT: Please call for more information and possible schedule changes: Contact: Magee Whelan or Kevin Kirk, (202) 376–6905.

The Presidential Commission on the Assignment of Women in the Armed Forces was established by Congress in the National Defense Authorization Act of 1992 (Pub. L. 102–190). The 15-member commission shall assess the laws and policies governing the assignment of women in the military and shall make recommendations on such matters to the President by November 15, 1992.

W. S. Orr,

Staff Director.

[FR Doc. 92–18575 Filed 8–4–92; 8:45 am]

BILLING CODE 6820–CD–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Sick Pay and Miscellaneous Payments Report.

(2) *Form(s) submitted:* BA–10.

(3) *OMB Number:* 3220–0175.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* Annually.

(7) *Respondents:* Businesses or other for-profit; Small businesses or organizations.

(8) *Estimated annual number of respondents:* See justification (Item 13).

(9) *Total annual responses:* 182.

(10) *Average time per response:* .92 hours.

(11) *Total annual reporting hours:* 167.

(12) *Collection description:* The Railroad Retirement Solvency Act of 1983 added Sec. 1(h)(8) to the RRA expanding the definition of

compensation for purposes of computing the Tier I portion of an annuity to include sickness payments and certain other payments to other than sick pay which are considered compensation within the meaning of Sec. 1(h)(8). Collection obtains the sick pay and other types of payments considered compensation within the meaning of Sec. 1(h)(8).

ADDITIONAL INFORMATION OR CONTACT: Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 92–18488 Filed 8–4–92; 8:45 am]

BILLING CODE 7905–01–M

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Procurement Requests.

(2) *Form(s) submitted:* SF–33.

(3) *OMB Number:* 3220–0139.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Business or other for-profit; non-profit institutions; small businesses or organizations.

(8) *Estimated annual number of respondents:* 49.

(9) *Total annual responses:* 64.

(10) *Average time per response:* 1.00 hours.

(11) *Total annual reporting hours:* 100.

(12) *Collection description:* The collection obtains the information needed from bidders to award contracts for services or equipment.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 92–18489 Filed 8–4–92; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–30970; File No. SR–PHILADEP–92–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Depository Trust Company Relating to Fee Revision

July 30, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on June 29, 1992, the Philadelphia Depository Trust Company ("PHILADEP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PHILADEP proposes to increase its fees to participants for certain deposits and transfers in order to better recover the out-of-pocket costs for these services provided by the Corporation. The changes are to take effect on June 29, 1992.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

PHILADEP seeks to revise its certificate fee for deposits and transfers to recover its out-of-pocket costs paid to transfer agents. The fee revision is based on one central premise. For certain non-NYSE issues, transfer agents charge certificate fees when new certificates are issued. Historically, PHILADEP has assessed a flat $5.00 fee for recovering its costs for both deposits and transfers. However, transfer agents have been increasing individual certificate charges and PHILADEP seeks to recover its out-of-pocket expenses. Careful review of these service fees discloses that PHILADEP continues to provide specific services at cost effective rates as compared to its competitor's fees.

By instituting and revising the new fee schedule, PHILADEP can continue to provide cost effective services.

The proposed rule change is consistent with section 17A(b)(3)(D) of the Act in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHILADEP believes that no burden will be placed on competition as a result of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

A forthcoming SCCP/PHILADEP Member Bulletin will advise members where they may direct questions regarding the new fee schedule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4 because the proposed rule change establishes or changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily

[1] 15 U.S.C. 78s(b)(1).

abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at PHILADEP. All submissions should refer to file number SR–PHILADEP–92–01 and should be submitted by August 26, 1992.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–18545 Filed 8–4–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18873; No. 811–5322]

Colonial/Hancock Liberty Separate Account

July 29, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Colonial/Hancock Liberty Separate Account ("Applicant" or "Colonial/Hancock").

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: The Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

[2] 17 CFR 200.30–3(a)(12).

FILING DATE: The application was filed on March 9, 1992. Amended and restated applications were filed on June 15, 1992 and July 20, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 24, 1992, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, John Hancock Mutual Life Insurance Company, John Hancock Place, 200 Clarendon Street, Boston, Massachusetts 02117.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Attorney, at (202) 272–272–2676, or Wendell Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Colonial/Hancock is a separate account of John Hancock Mutual Life Insurance Company ("John Hancock"). Colonial/Hancock was organized under the laws of Massachusetts on May 11, 1987 for the purpose of supporting certain deferred variable annuity contracts.

2. Colonial/Hancock is registered under the 1940 Act as a unit investment trust. On September 9, 1987, Colonial/Hancock filed a Notification of Registration as an investment company on Form N–8A (File No. 811–5322) and a registration statement under the Securities Act of 1933 and the 1940 Act on Form N–4 (File No. 33–17127). The registration statement became effective on April 29, 1988, the date on which the initial public offering of flexible premium variable annuity contracts ("Contracts") commenced.

3. Colonial/Hancock has seven sub-accounts (each labelled on the basis of its investment objective): (1) Money Market; (2) Investment Grade Income; (3) Aggressive Income; (4) Asset Allocation; (5) Growth and Income; (6) Aggressive Growth; and (7) Inflation Hedge (collectively, "Sub-Accounts"). The Sub-Accounts were invested in corresponding portfolios of Colonial/Hancock Liberty Trust ("Trust"), an open-end diversified management investment company organized by Colonial Management Associates, Inc. ("Colonial") under the laws of Massachusetts on August 25, 1987. Shares of beneficial interest in the Trust were sold only to Colonial/Hancock in connection with the funding of Contracts issued by John Hancock. No sales load was imposed by the Contracts on annuity considerations received or on withdrawals or surrenders.

4. Colonial/Hancock has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are security holders of Colonial/Hancock.

5. The volume of Contracts sold after commencement of the public offering did not meet Colonial/Hancock's and John Hancock's expectations. As a result, the assets under management did not increase significantly and the Contracts became less advantageous to the Contractowners from the viewpoint of both investment return and expenses.

Accordingly, Colonial/Hancock and John Hancock determined in May of 1991 that continued efforts to effect new sales of the Contracts were not in the best interest of the Contractowners, the Trust or Colonial/Hancock. New sales were suspended on May 15, 1991, and shortly thereafter the Contractowners were notified in writing that it would be to their advantage to surrender their Contracts or effect a so-called "Section 1035 tax-free exchange." Colonial/Hancock thereafter processed exchanges and surrenders at net asset value, there being no withdrawal or surrender charges, until February 17, 1992, when all Contractowners had elected one of the alternatives. After each sub-account of Colonial/Hancock was devoid of any Contractowner interests, Colonial/Hancock or John Hancock, as the case may be, withdrew its seed money from the sub-account. This procedure was completed on February 20, 1992.

6. Colonial/Hancock has no assets and does not intend to acquire any assets in the future. Colonial/Hancock has no security holders and no known debts or outstanding liabilities. Further, Colonial/Hancock is not a party to any litigation or administrative proceedings, and is not now engaged, nor does it propose to engage in any business

activities, other than to wind up its business affairs.

7. All expenses incurred in connection with the liquidation of Applicant and its deregistration have been or will be borne by John Hancock. Colonial/Hancock is current in all of its required filings under the 1940 Act and its reports on Form N–SAR have been made and will continue to be made until an order has been entered declaring that Colonial/Hancock has ceased to be an investment company.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–18546 Filed 8–4–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel No. IC–18870; 812–7936]

Connecticut General Life Insurance Company, et al.

July 28, 1992.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Connecticut General Life Insurance Company ("Connecticut General"), CG Variable Annuity Separate Account (the "Variable Account"), and CIGNA Securities ("CSI").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of the Variable Account funding individual and group flexible premium deferred annuity contracts (the "Contracts").

FILING DATE: The application was filed on June 1, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on August 24, 1992, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issue contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Connecticut General Life Insurance Company, 900 Cottage Grove Road, Bloomfield, Connecticut 06002. Copies to Frederick R. Bellamy, Esq., Sutherland, Asbill & Brennan, 1275 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Cindy J. Rose, Financial Analyst, at (202) 272–2060, or Wendell M. Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Connecticut General is a Connecticut domiciled stock life insurance company chartered by a special Act of the Connecticut General Assembly in 1865.

2. CSI will serve as the distributor and principal underwriter of the Contracts. CSI is registered under the Securities Exchange Act of 1934 as a broker-dealer and is a member of the National Association of Securities Dealers, Inc.

3. The Variable Account has filed with the Commission a Registration Statement on Form N–4 on June 1, 1992.

4. The Variable Account was established by Connecticut General as a separate account under the laws of the state of Connecticut on May 15, 1992 to fund flexible premium deferred annuity contracts. The Contracts are combination fixed and variable flexible premium annuities which can be purchased on a non-tax qualified basis or with the proceeds from certain plans qualifying for favorable federal income tax treatment. Contracts may be issued on both an individual and a group basis.

5. The Variable Account will invest in shares of one or more of the investment portfolios of the AIM VA Series Fund (the "Series Fund"). The Series Fund is a diversified, open-end management investment company which has a number of investment portfolios.

6. The Contract Owner may allocate purchase payments to one or more Sub-Accounts of the Variable Account, to one or more Sub-Accounts of the Fixed Account which guarantee a minimum fixed return, or to a combination of Fixed and Variable Accounts. The Annuity Account Value of each Contract is the sum of the portions of the Contract allocated to the Variable Account and that portion allocated to the Fixed Account.

7. The Contracts also provide for death benefits. In the event that a Contract Owner dies prior to the annuity Date, Connecticut General will pay a death benefit to the Beneficiary. The Contract Owner chooses a death benefit option from any one of the several death benefit options available in the Contract.

8. Connecticut General will deduct an annual policy administration fee, currently $35 per Contract per year. This fee will be deducted on a pro rata basis from all of a Contract Owner's Sub-Accounts each year on the Contract Anniversary and the annuity date and upon full surrender of the Contract. After the annuity date the fee will be deducted in installments from the annuity payments. Connecticut General also deducts a daily administrative expense charge from the assets of each Sub-Account of the Variable Account currently at an effective rate of 0.10% of the average net assets of the Variable Account. Connecticut General will deduct the administrative charges in reliance upon, and in compliance with, Rule 26a–1 under the 1940 Act. Connecticut General does not anticipate any profit from these charges.

9. A withdrawal charge (contingent deferred sales charge) may be assessed by Connecticut General if any part of the Contract Owner's Annuity Account is withdrawn. The withdrawal charge starts at 7 percent during the first contract year and is reduced by 1 percent each contract year thereafter so that no withdrawal charge applies after seven years. For purposes of computing the withdrawal charge, amounts are deemed to be withdrawn in the order in which they were received by Connecticut General (*i.e.*, oldest premium payment first). Connecticut General guarantees that in no event will the withdrawal charge exceed 8.5% of the total amount of a Contract Owner's premium payments accepted by Connecticut General prior to the withdrawal. Partial withdrawals and full surrenders from the Fixed Account are subject to a Market Value Adjustment.

10. The Contracts also provide for a yearly Ten Percent Free withdrawal amount. A Contract Owner may withdraw up to 10% of the Contract Owner's Annuity Account which has been allocated to the Fixed Account and up to 10% of the Contract Owner's Annuity Account which has been allocated to the Variable Account each Contract Year without the imposition of

a withdrawal charge or Market Value Adjustment.

11. Connecticut General may incur premium taxes relating to the Contracts. Connecticut General will deduct any premium taxes related to a particular Contract upon surrender, withdrawal, annuitization or payment of death benefits.

12. Connecticut General imposes a daily charge to compensate it for bearing certain mortality and expense risks in connection with the Contracts. This charge will be at an annual rate of 1.25% of the value of the net assets in the Variable Account. Of that amount, approximately 0.75% is estimated to be attributable to mortality risks, and approximately 0.50% is estimated to be attributable to expense risks. If the mortality and expense risk charge is insufficient to cover actual costs and assumed risks, the loss will fall on Connecticut General. Conversely, if the charge is more than sufficient to cover costs, any excess will be profit to Connecticut General. Connecticut General currently anticipates a profit from this charge.

13. The mortality risk borne by Connecticut General arises from its contractual obligation to make annuity payments regardless of how long all Annuitants or any individual Annuitant may live. Connecticut General also incurs a risk in connection with the payment of death benefits. The death benefit paid by Connecticut General may exceed the Contract Owner's Annuity Account Value at the time of death.

14. The expense risk assumed by Connecticut General is the risk that administrative charges assessed under the Contracts may be insufficient to cover the actual total administration expenses incurred by Connecticut General.

15. Connecticut General does not anticipate that withdrawal charges will generate sufficient funds to pay the cost of distributing the Contracts. If these charges are insufficient to cover the expenses, the deficiency will be met from Connecticut General's general account funds, which may include amounts derived from the charge for mortality and expense risks.

Applicants' Legal Analysis and Conditions

1. Applicants seek an exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the issuance and sale of the Contracts providing for the deduction of a mortality and expense risk charge. Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust shall be allowed the trustee or custodian as an expense except compensation, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the trustee or custodian. Section 27(c)(2) prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments on such certificates, other than sales loads, are deposited with a trustee or custodian having the qualifications prescribed in section 26(a)(1) of the 1940 Act, and are held by such trustee or custodian under an agreement containing substantially the provisions required by sections 26(a)(2) and 26(a)(3) of the 1940 Act.

2. Connecticut General represents that the 1.25% charge for mortality and expense risks is within the range of industry practice with respect to comparable annuity products. Connecticut General has reviewed publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees and guaranteed annuity rates. Connecticut General will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

3. Applicants acknowledge that the proceeds from the withdrawal charge may be insufficient to cover all costs relating to the distribution of the Contracts. If a profit is realized from the mortality and expense risk charge, all or a portion of that profit may be viewed by the Commission as being an offset by distribution expenses not reimbursed by the withdrawal charge. Connecticut General has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Contract Owners. The basis for such conclusion is set forth in a memorandum which will be maintained by Connecticut General at its administrative offices and will be available to the Commission.

4. Connecticut General also represents that the Variable Account will invest only in management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 to finance distribution expenses, to have a board of directors, a majority of whom are not interested persons of the company, formulate and approve any such plan under 12b-1 rule.

Conclusion

Applicants submit that for the reasons stated above, the requested exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act for the deduction of a mortality and expense risk charge meet the standards in section 6(c) of the 1940 Act. Accordingly, Applicants believe that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-18547 Filed 8-4-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18872; 811-6480]

The Turkish Growth Fund, Inc.; Notice of Application

July 28, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Turkish Growth Fund, Inc. ("Applicant").

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the Act.

FILING DATE: The application was filed on July 8, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 24, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 272–3023, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1 Applicant is a closed-end non-diversified management investment company incorporated under the laws of the State of Maryland. On November 20, 1991, applicant filed a Notification of Registration pursuant to section 8(a) of the Act on Form N–8A. Applicant did not file a registration statement pursuant to section 8(b) of the Act. Applicant has never made a public offering of its securities.

2. Applicant has no shareholders, assets of liabilities. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant has not commenced, and does not intend to commence, operations. Applicant will not engage in any business activities other than those necessary to wind-up its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–18548 Filed 8–4–92; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1664]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting August 26, 1992 in the Meeting Room of the National Radio Astronomy Observatory, Greenbank, West Virginia commencing at 9:30 a.m.

Study Group 7 deals with matters relating to the space research systems and standard frequency and time systems. The purpose of the meeting is to review 1992 work plans for each of the Working Parties in Study Group 7, clarify work required on the Resolutions and Recommendations of WARC–92 requesting CCIR studies and review liaison activities with Study Groups 1, 4, 8 and 9. A tour of Greenbank facilities will take place upon the conclusion of the meeting.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Those planning to attend the meeting should contact Mr. Tom Gergely (202) 357–9696 or Mr. Dick Thompson (804) 296–0285 for accommodations and arrival times.

Dated: July 20, 1992.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 92–18471 Filed 8–4–92; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program for McClellan–Palomar Airport, Carlsbad, CA

AGENCY: Federal Aviation Administration.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the County of San Diego under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On December 20, 1991 the FAA determined that the noise exposure maps submitted by the County of San Diego, under Part 150 were in compliance with applicable requirements. On June 16, 1992 the Administrator approved the McClellan-Palomar Airport noise compatibility program. Fifteen of the twenty-four recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the McClellan-Palomar Airport noise compatibility program is June 16, 1992.

FOR FURTHER INFORMATION CONTACT: William T. Johnstone, Airport Planner, Airports Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Blvd., Hawthorne, CA 90261. Telephone (310) 297–1621. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for the McClellan-Palomar Airport, effective June 16, 1992. Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delinated in

FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports Division Office in Hawthorne, California.

The County of San Diego submitted to the FAA on October 12, 1990 the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from September 27, 1988 through October 1, 1991. The McClellan-Palomar Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on December 20, 1991. Notice of this determination was published in the **Federal Register** on January 6, 1992.

The McClellan-Palomar Airport study contains a proposed noise compatility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2007. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on December 20, 1991, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained eighteen noise abatement measures and six noise mitigation measures. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective June 16, 1992.

Outright approval was granted for 15 of the 24 specific program elements. Noise abatement measures approved include visual departure procedures, noise monitoring testing, use of Runway 24 for all aircraft during calm wind conditions, discouraging jet training operations, implementing a voluntary stage 2 departure curfew, installation and operation of a noise monitoring system, designate a noise abatement officer, continue operation of a noise abatement committee, map noise sensitive areas, amend county land use plan for the airport, amend the noise element of the General Plan of the county, and city of Carlsbad, rezone uncompatible land use, require avigation easements from noise sensitive developments within the 65+CNEL, and encourage full disclosure statements for all properties within the 65+CNEL.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on June 16, 1992. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the County of San Diego.

Issued in Hawthorne, California on July 21, 1992.

Ellsworth L. Chan,

Acting Manager, Airports Division.

[FR Doc. 92-18520 Filed 8-4-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Protection Agency; Memorandum of Understanding

AGENCY: Federal Highway Administration (FHWA), DOT and Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The FHWA and the EPA today publish for public information the text of the Memorandum of Understanding (MOU) signed by the FHWA and the EPA to increase cooperation in a number of high priority areas for an environmentally-sound transportation system in the United States.

DATES: The MOU was signed on April 22, 1992.

FOR FURTHER INFORMATION CONTACT: Fred Skaer, Office of Environment and Planning, Federal Highway Administration, 400 7th Street SW., Washington, DC 20509, 202-366-2065 or Mark Joyce, Office of the Administrator, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, 202-260-4728. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

Authority: (23 U.S.C. 315; 49 CFR 1.48.)

Henry Habicht,

Deputy EPA Administrator, Environmental Protection Agency.

Thomas D. Larson,

FHWA Administrator, Federal Highway Administration.

Memorandum of Understanding Between the U.S. Environmental Protection Agency and the Federal Highway Administration

I. Purpose

Because environmental and transportation policy can and should be complementary, the Environmental Protection Agency and the Federal Highway Administration seek to work together for a more efficient and environmental-sound transportation system in the United States. The recent passage of the Intermodal Surface Transportation Efficiency Act presents a special opportunity for cooperation. Each agency sees a need and an opportunity to work together on the following (non-exclusive) areas:

- Congestion and air quality management;
- Education and outreach;
- Enhancement of environmentally sound transportation-related activities;
- Environmental impact assessment;
- Habitat protection and enhancement;
- Hazardous waste remediation, transport, and disposal;
- Innovative financing alternatives and public-private partnerships;
- Pollution prevention, control, and abatements;
- Recycling;
- Regional, State, and local partnerships;
- Research and development;
- Water quality and water use efficiency; and
- Wetlands preservation, restoration, and improvement.

The purpose of this agreement is to continue policies and administrative procedures for a working relationship between the Environmental Protection Agency and the Federal Highway Administration in support of work in these and other areas toward common objectives, interests, and statutory requirements.

Additional agreements are being and may be developed to outline activities by and between individual work units as needed for specific tasks. Such agreements will provide for the use of facilities, personnel, reimbursement for personal expenses, cooperative projects, transfer of funds, and other activities as appropriate and will be subject to the

laws and regulations pertaining to the respective agency. This agreement is a complement to, but does not supersede, any more specific work until level agreements.

II. Authorities

Nothing in this agreement alters the statutory authorities of the Environmental Protection Agency or the Federal Highway Administration. This agreement is intended to facilitate the fulfillment of statutory requirements and cooperative efforts, including mandates for consultation on policy matters and the mutual provision of research and technical assistance by both agencies, and the conduct of programs affecting the quality of the environment and the provision of transportation-related services. The Environmental Protection Agency has regulatory responsibility for the prevention, control, and abatement of pollution in areas of air, water, soils, solid waste, pesticides, noise, radiation, and toxic substances. This includes setting and enforcing environmental standards; conducting research on the causes, effects, and control of environmental problems; and assisting state and local entities.

The Federal Highway Administration has statutory responsibility for financially and technically assisting the states and local governments in providing highway and surface transportation services, and for assisting federal, state, and local agencies in planning, designing, and constructing highways on federally-owned land, as requested. This includes overseeing the federally-assisted work of the states and local governments to assure compliance with federal environmental and other program requirements, providing highway-related services to federal land management agencies, and conducting a program of research and development to advance the state of surface transportation technology.

The agencies share an interest in encouraging responsible and efficient management of the nation's transportation system in an environmentally sound manner. The actions carried out under this agreement will strengthen coordination, increase understanding and action on issues concerning transportation and the environment, and reduce the duplicative use of resources and expertise.

III. Provisions

The Environmental Protection Agency agrees:

To provide environmental expertise on environment-related transportation matters by providing the Federal Highway Administration with technical reviews, advice, consultation, and technical assistance in the planning and reviewing of national programs, training, research, and demonstrations;

To establish processes which encourage, guide, and facilitate the Federal Highway Administration's working arrangements with the Environmental Protection Agency, its regional offices, research laboratories, and cooperating entities;

To encourage and direct, as feasible, programs and activities conducted or supported by the Federal Highway Administration and its cooperators toward improving the nation's transportation system and its environment.

The Federal Highway Administration agrees:

To provide transportation expertise on transportation-related environmental matters by providing the Environmental Protection Agency with technical reviews, advice, consultation, and technical assistance in the planning and reviewing of national programs, training, research, and demonstrations;

To establish processes which encourage, guide, and facilitate and Environmental Protection Agency's working arrangements with the Federal Highway Administration, its regional offices, research laboratories, and cooperating entities;

To encourage and direct, as feasible, programs and activities conducted or supported by the Environmental Protection Agency and its cooperators toward improving the quality of the nation's transportation system and its environment.

It is mutually agreed:

To exchange, on a temporary detail basis, personnel so that each agency may better learn the public policies of the other and so that each can efficiently use the mechanisms and expertise of the other agency;

To the extent possible, support each other on budget, policy, and especially research matters related to the implementation of this agreement;

To establish an Environmental Protection Agency/Federal Highway Administration Action Team with representatives assigned by the Administrator of each agency. This team will prepare an action plan identifying specifics for implementing this agreement, and function as an ongoing forum for the discussion of issues affecting each agency.

IV. Project Officers

The project officers for this agreement are: Mark Joyce, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, 202–260–4728, and Fred Skaer, Federal Highway Administration, 400 7th Street SW., Washington, DC 20590, 202–366–2065.

V. Duration of the Agreement

This agreement becomes effective on the date of signature by both parties, and continues until modified by mutual consent or terminated by either party in writing with 90 days advance notice of intent. The action plan will be reviewed at least annually and revised as needed.

Dated: April 22, 1992.

Henry Habicht,

Deputy Administrator, Environmental Protection Agency.

Thomas D. Larson,

Administrator, Federal Highway Administration.

[FR Doc. 92–18555 Filed 8–4–92; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

Denial of Petition for Import Eligibility Determination

This notice sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration ("NHTSA") under section 108(c)(3)(C)(i)(I) of the National Traffic and Motor Vehicle Safety Act ("the Act"), 15 U.S.C. 1397(c)(3)(C)(i)(I), and 49 CFR part 593. The petition, which was submitted by G&K Automotive Conversion, Inc. of Anaheim, California ("G&K"), a Registered Importer of motor vehicles, requested NHTSA to determine that a 1990 Mercedes Benz 300SL–24 passenger car that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to the version of the 1990 Mercedes Benz 300SL–24 that was originally manufactured for importation into and sale in the United States and that was certified by its original manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

NHTSA published a notice in the Federal Register on September 9, 1991 (56 FR 46034) that contained a thorough description of the petition, and solicited public comments upon it. One comment was received in response to this notice, from Mercedes-Benz of North America, Inc. ("MBNA"), the U.S. subsidiary of Daimler-Benz AG, the vehicle's original manufacturer.

In its comment, MBNA contended, among other things, that G&K did not demonstrate that the subject vehicle is capable of being readily modified to conform to Standard No. 208, *Occupant Crash Protection*. That standard requires that passenger cars manufactured on or after September 1, 1989 be equipped with automatic restraints at each front outboard seating position. Under the terms of the standard, as it applies to vehicles built prior to September 1, 1993, if the driver is adequately protected by an air bag, then the outboard front seat passenger need only be protected by a manually operated lap/shoulder belt.

In its petition, G&K claimed that the non-U.S. certified version of the 1990 Mercedes Benz 300SL–24 is equipped with airbags that meet the automatic restraint requirements of Standard No. 208. In response to this claim, MBNA asserted that the vehicle is equipped with a European supplemental restraint system that is significantly different from the U.S. version of this system, and does not meet the automatic restraint requirements of Standard No. 208. Moreover, MBNA contended that the structural and component modifications necessary to conform the non-U.S. certified version of the 1990 Mercedes Benz 300SL–24 to those requiirements would be so significant that they disqualify the vehicle from importation.

NHTSA accorded G&K an opportunity to respond to MBNA's comments. In its response, G&K failed to supply any evidence that the automatic restraint system on the non-U.S. certified version of the 1990 Mercedes Benz 300SL–24 is identical to that on its U.S.-certified counterpart, or any engineering data to support its claim that the subject vehicle could be readily modified to conform to the automatic restraint requirements of Standard No. 208. This has compelled NHTSA to conclude, from the state of the record, that the petition does not clearly demostrate that the non-U.S. certified version of the 1990 Mercedes Benz 300SL–24 is eligible for importation. The petition must therefore be denied under 49 CFR 593.7(e).

In accordance with section 108(c)(3)(C)(ii) of the Act, 15 U.S.C. 1397(c)(3)(C)(ii), and 49 CFR 593.7(e), NHTSA will not consider a new import eligibility petition covering this vehicle until at least three months from the date of this notice.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C) (ii); 49 CFR 593.7; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 31, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 92–18558 Filed 8–4–92; 8:45 am]

BILLING CODE 4910–59–M

Office of the Secretary

Privacy Act of 1974: Systems of Records; Civil Aviation Security

The Department of Transportation herewith publishes a notice proposing to amend the existing system of records, DOT/FAA 813, Civil Aviation Security, by expanding the categories of individuals and records, and by changing the equipment configuration by adding computer systems hardware and software.

Any person or agency may submit written comments on the proposed amendment of the system to the Privacy Act Officer (M–34), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Comments to be considered must be received by August 29, 1992.

If no comments are received, the proposed changes will become effective 30 days from the date of issuance. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, DC, July 29, 1992.

Melissa J. Allen,

Deputy Assistant Secretary for Administration.

DOT/FAA 813

SYSTEM NAME:

Civil Aviation Security, DOT/FAA 813.

SYSTEM LOCATION:

These records are maintained at the Civil Aviation Security Office of Policy and Planning, Planning Division, in Washington, DC; the FAA Regional Civil Aviation Security Divisions; the Civil Aviation Security Division at the Mike Monroney Aeronautical Center in Oklahoma City, Oklahoma; and the Civil Aviation Security Staff at the FAA Technical Center, Atlantic City, New Jersey.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records contains information regarding persons who have been involved or might be involved in crimes against civil aviation or air piracy/sabotage threats, data regarding K–9 handlers, and information regarding Federal Air Marshals (FAM).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information concerning hijacking or attempted hijacking incidents at airports or aboard civil aviation aircraft; other civil aviation criminal acts; information of K–9 assignments to airports, K–9 handler evaluations; and information necessary to manage the FAM program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

- Source of data by which to inform airport and air carrier security officials and officers regarding air piracy/civil aviation sabotage threats.
- Source of data for preparation of alerts, bulletins, and summaries of incidents regarding threats to civil aviation for distribution to authorized government and aviation recipients for use in affecting appropriate changes/modifications to civil aviation security.
- Source of data from which to prepare summaries, reports, and policy statements for development/change of security procedures in civil aviation which will be distributed to appropriate government and aviation-oriented organizations which have direct civil aviation security responsibilities.
- See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in approved security files and containers and in computer processable ADP storage media.

RETRIEVABILITY:

These records are retrieved by name or other personal identifying symbol.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access and use. This record management principle is reinforced by appropriate physical, technical, and administrative safeguards as prescribed by FAA security directives applicable to both manual and automated record systems.

RETENTION AND DISPOSAL:

These records are destroyed or retired to the area Federal Records Center and then destroyed in accordance with the current issue of FAA Order 1350.15, Records Organization, Transfer and Destruction Standards. The retention and destruction period for each record varies depending on the type of record, category of investigation, or significance

of the information contained in the record. All records are destroyed by approved methods.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Policy and Planning, Planning Division, ACP-200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system of records contains a record pertaining to him or her by addressing a written request to the System Manager identified above. The request should include enough information to allow for accurate identification of the record. For example, full name, date and place of birth, social security number of the requester, and any available information regarding the type of record involved should be provided.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to such systems of records should contact the System Manager. However, classified data and investigative data compiled for law enforcement purposes may be exempt from the access provision pursuant to 5 U.S.C. 552a(k)(2).

CONTESTING RECORD PROCEDURES:

Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegate at: 800 Independence Avenue, SW., Washington, DC 20591.

RECORD SOURCE CATEGORIES:

Information contained in this system comes from FAA records; Federal, State, or local agencies; foreign sources; public record sources; first party; and third parties.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system of records is exempt from certain subsections of the Privacy Act. Investigatory material and records in this system compiled for law enforcement purposes, in accordance with 5 U.S.C. 552a(k)(2), are exempt from subsections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H) and (I) (Notice Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a. National security information and records consisting of information properly classified, in accordance with 5 U.S.C. 552(b)(1), are exempt from subsections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4)(G), (H) and (I) (Notice Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a. The purposes of these exemptions are to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1), and to protect investigatory materials compiled for law enforcement purposes in accordance with 5 U.S.C. 552a(k)(2). Disclosure of such material would hamper law enforcement by prematurely disclosing the knowledge of illegal activity and the evidentiary basis for possible enforcement actions.

Narrative Statement for the Department of Transportation, Federal Aviation Administration

Explanation of change: The Federal Aviation Administration (FAA) proposes to amend the existing system of records, DOT/FAA 813, Civil Aviation Security System, by expanding the categories of individuals and records to include data regarding K-9 handlers and information regarding Federal Air Marshals, and by expanding the equipment configuration by adding computer system hardware and software. "Storage" is amended to add ADP storage media.

Purpose of System: This system of records contains information regarding persons who have been or might have been involved in air piracy/sabotage threats, K-9 handlers, and Federal Air Marshals. The system is used for preparing alerts, bulletins, summaries, reports, and policy statements of incidents affecting civil aviation security.

Authority under which the system is maintained: FAA Act of 1958, as amended, Section 316.

Effect on individual rights: The information in this system of records is used only in accordance with the purpose for which it was collected and in accordance with the stated routine uses. Since we are limiting the intrusion into individual privacy to what is necessary to achieve the purposes stated and referenced herein, this amendment is not expected to have an unduly harmful effect on individual privacy or property rights.

Relationship to government agencies: This information will be distributed to appropriate government and aviation organizations for the limited purpose of responding to incidents affecting civil aviation security and/or airport/air carrier safety, and for Federal and state law enforcement purposes.

Security: Access to and use of these records are limited to those persons whose official duties require such access. This record management principle is reinforced by appropriate physical, technical, and administrative safeguards as prescribed by FAA security directives applicable to both manual and automated record systems.

Compatability of routine uses with the purposes for which the records were collected: The routine uses are compatible with the purposes for which the information was collected.

OMB Control Numbers: None.

[FR Doc. 92-18484 Filed 8-4-92; 8:45 am]

BILLING CODE 4910-62-M#

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Italian Renaissance and Baroque Drawings from the Biblioteca Reale di Torino" (see list) [1] imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, DC, beginning on or about September 27, 1992, to on or about January 3, 1993.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: July 30, 1992.

Alberto J. Mora,

General Counsel.

[FR Doc. 92-18559 Filed 8-4-92; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of General Counsel of USIA. The telephone number is 202/619-5078, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 57, No. 151
Wednesday, August 5, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, August 10, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 31, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-18640 Filed 8-3-92; 10:39 am]

BILLING CODE 6210-01-M

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., August 31, 1992.

PLACE: On board MV *Mississippi* at foot of Eighth Street, Cairo, IL.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting;

(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and

(3) District Commander's report on the Mississippi River and Tributaries Project in Memphis District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 92-18643 Filed 8-3-92; 8:45am]

BILLING CODE 3710-GX-M

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 1, 1992.

PLACE: On board MV *Mississippi* at City Front, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; and

(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 92-18644 Filed 8-3-92; 10:53 am]

BILLING CODE 3710-GX-M

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 3:30 p.m., September 2, 1992.

PLACE: On board MV *Mississippi* at City Front, Vicksburg, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting;

(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and

(3) District Commander's report on the Mississippi River and Tributaries Project in Vicksburg District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 92-18645 Filed 8-3-92; 10:53 am]

BILLING CODE 3710-GX-M

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., September 4, 1992.

PLACE: On board MV *Mississippi* at City Front, Morgan City, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

(1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting;

(2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and

(3) District Commander's report on the Mississippi River and Tributaries Project in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601-634-5766

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 92-18646 Filed 8-3-92; 10:53 am]

BILLING CODE 3710-GX-M

Corrections

Federal Register
Vol. 57, No. 151
Wednesday, August 5, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ACTION

Information Collection; Final Notice

Correction

In notice document 92-16968 beginning on page 32512 in the issue of Wednesday, July 22, 1992, make the following corrections:

1. On page 32514, in the second column, in the fourth paragraph, in the seventh line, "not" should read "now".

2. On the same page, in the same column, in the fifth paragraph, in the ninth line, insert "only does it define specific elements which determine" following "Not".

3. On page 32515, in the first column, in the fifth line from the bottom, insert, "OMB No. 3001–0130" following "(TDD)."

4. On the same page, in the second column, in the eighth line, "programs" should read "program".

5. On page 32516, in the third column, following the second complete paragraph, "Building and Site Acessibility-General Information" should have appeared as a heading in boldface type.

6. On page 32517, in the first column, above the table, insert the heading "Yes No N/A"

7. On the same page, in the second column, above the last entry, delete the heading "Yes No N/A" the third time it appears.

8. On page 32519, in the first column, in the last line, "knew" should read "knee".

9. On the same page, in the second column, in the last paragraph, in the third line, "to" should read "or".

10. On the same page, in the same column, in the same paragraph, in the last line, insert "OMB No. 3001-0128".

BILLING CODE 1505-01-D

federal register

Wednesday
August 5, 1992

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System; Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26886; Amendment No. 91-229]

RIN 2120-AE27

Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is rescinding the Mode S transponder requirement for aircraft operating under part 91 of the Federal Aviation Regulations. The Mode S ground sensors, the bulwark of the Model S system, are not expected to be fully operational until late 1995. Therefore, requiring all aircraft to have Mode S transponders at this time is not essential for a safe and efficient National Airspace System. Until the installation of the Mode S ground sensors and studies of their effectiveness are completed, the FAA has determined that it is not in the public interest to require that any transponder newly installed in a general aviation aircraft after July 1, 1992, be a Mode S transponder.

EFFECTIVE DATE: July 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron I. Boxer, Air Traffic Rules Branch, ATP-230, Airspace Rules and Aeronautical Information Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION: The two kinds of aircraft equipment addressed by this rulemaking are the Mode A and the Mode S transponders.

The Mode A transponder consists of a radio transceiver that responds to radar pulses from radar ground sensors. It forms one component of the radar system used in air traffic control. The Mode A transponder can be set to transmit one of 4,096 distinct radar codes in response to a radar pulse sent by a radar ground sensor. The ground sensor receives the distinct transmission and an amplified return indicates the aircraft's position on the controller's radar scope.

The Mode S transponder is an advanced version of the Mode A transponder. In addition to providing the reliability of solid state circuitry, Mode S transponders can transmit a discrete set of radio pulses (codes) from each aircraft. In conjunction with Mode S ground sensors, a system of nearly interference-free radar transmission and reception will exist. The Mode S transponder is completely interoperative and compatible with existing ground sensors. The Mode A transponder is similarly compatible with Mode S ground sensors.

History

In 1982 the FAA announced a comprehensive plan to modernize and improve air traffic control and airway facilities. One part of the comprehensive plan included introducing the Mode S system. In an advanced notice of proposed rulemaking (48 FR 48364, October 18, 1983), the FAA stated that improved surveillance reliability and accuracy would be a central objective of the Mode S system. Mode S transponders were considered an integral link in the system, furnishing accurate, reliable and positive air traffic control information on aircraft identity, position, and altitude. At that time, the first 137 Mode S ground sensors were expected to be on-line by 1991. Therefore, the Mode S transponder requirement was promulgated with a final rule published February 3, 1987 (Amendment No. 91-198; 52 FR 3380). This final rule required that any transponder newly installed in a general aviation aircraft before January 1, 1992, could be a Mode A or Mode S transponder, provided the transponder was manufactured prior to January 1, 1990. Under Amendment 91-198, only Mode S transponders could be newly installed in general aviation aircraft after January 1, 1992.

Due to difficulties in manufacturing Mode S transponders, the FAA amended the installation and manufacturing cutoff dates to July 1, 1992, and January 1, 1991, respectively (Amendment 91-210; 54 FR 25681, June 16, 1989). On January 4, 1991, the FAA removed the manufacturing cutoff date associated with the Mode S transponder requirement in response to inventory shortfalls reported by transponder manufacturers (Amendment 91-221; 56 FR 467). The testing and installation schedule of Mode S ground sensors was also experiencing delays.

Amendment 91-221, which was codified in § 91.215(a) of the Federal Aviation Regulations (14 CFR), provided, in pertinent part, that any transponder installed in a U.S.-registered civil general aviation aircraft up to and including July 1, 1992, must meet the performance and environmental requirements of any class of the following technical standard orders (TSOs): TSO-C74b (Mode A) or TSO-C74c (Mode A with altitude reporting capability), as appropriate, or the appropriate class of TSO-C112 (Mode S). Amendment 91-221 required any transponder newly installed in an aircraft after July 1, 1992, to meet the standards of the appropriate class of TSO-C112 (Mode S).

The Mode S System

The Mode S system is designed to alleviate deficiencies in the current radar system. The deficiencies include synchronous garble, loss of target and altitude integrity, and the availability of discrete beacon codes approaching the limitations of the existing technology. Of the two components in the Mode S system (i.e., the ground sensor and the transponder), the ground sensor is more critical in alleviating these deficiencies.

Synchronous garble occurs when the ground sensor interrogating two aircraft near one another cannot distinguish between their respective signals. The system then does not display information, or displays erroneous information, on the air traffic controller radar scope. This condition is most likely to hamper air traffic services in areas of high density aircraft activity such as Terminal Control Areas and Airport Radar Service Areas. The latest studies do not indicate to what degree this problem will be eliminated by Mode S ground sensors alone as compared to Mode S ground sensors combined with Mode S transponders. The FAA will analyze results from a study of the first operational Mode S ground sensor to determine, in a system environment, the improvements attributable solely to the new sensor in surveillance integrity and controller workload.

Target and altitude integrity expresses the ability of the radar system to distinguish between transmissions received from two different aircraft. The radar system transmits interrogation signals, and all transponder-equipped aircraft receiving the signal reply with a distinct code and, if so equipped, report the aircraft's altitude. As described earlier, the ability of the current system to distinguish between two signals is affected by the proximity of the aircraft to each other. Terrain, signal strength of the aircraft transponder equipment, and environmental factors can also derogate the ability of the ground sensor to determine the position and altitude of an aircraft. A 1977 FAA sponsored study determined that the existing radar ground sensors provided an overall target and altitude integrity of 82 to 87 percent. The same study indicated that, due to a narrower, more focused interrogation signal, use of Mode S

ground sensors with Mode A transponder equipment could improve integrity to 96 percent.

A homogeneous Mode S system, consisting of both Mode S ground sensors and transponders, will vastly improve accuracy in the surveillance of aircraft position and reduce interference in identity reports transmitted to air traffic controllers. The range accuracy of existing sensors is 729 feet between targets. In other words, when two aircraft are on the same bearing from an existing sensor and are less than 729 feet apart, one of the targets might not be displayed on the controller's radar scope. When the Mode S system is fully implemented, the targets of those aircraft can be expected to be displayed separately on the controller's radar scope even when those aircraft are only 25 feet apart.

Similarly, azimuth accuracy will improve with the Mode S system. To illustrate, when two aircraft are equal distances from a sensor in the existing system, they must be at least .23 degrees of azimuth apart before both targets are displayed. With the Mode S system, those same aircraft need only be apart by .06 degrees of azimuth to be displayed. The 1976 study postulated that a homogeneous Mode S environment (Mode S ground sensors and transponders) would increase integrity to more than 99 percent. Recent FAA tests of the Mode S ground sensors have verified these figures. The study to be performed following installation of the first ground sensor will confirm the degree of integrity and accuracy of Mode S ground sensors in an on-line system environment of Mode A and Mode S transponders.

As the number of aircraft being handled in the National Airspace System increases, the number of codes needed will eventually exceed the current limit of 4,096 discrete codes. The controllers assign radar codes, used to track aircraft position and altitude, to aircraft receiving air traffic services. The Mode S transponder is not limited to 4,096 possible codes. A Mode S transponder allows air traffic control to assign, transmit, and receive a radar code for each individual aircraft. Since commercial aircraft, requiring approximately 75 percent of the discrete codes assigned, are already installing Mode S transponders, the strain on the current transponder technology limits will be mitigated when the individually assigned radar code feature of Mode S is utilized for those aircraft.

The FAA has contracted to buy 137 Mode S ground sensors, which are crucial elements of the Mode S system. Because the sensors are not expected to be fully operational until late 1995 or early 1996, the more costly Mode S transponder equipment is not yet necessary for general aviation aircraft. As the Mode S ground sensors become operational and the vast majority of the commercial fleet becomes equipped with Mode S transponders, the need for general aviation aircraft to use Mode S transponders may be further diminished. Future testing, as Mode S ground sensors come on-line, will confirm the extent of this need.

The FAA has also received recommendations for further study of the Mode S transponder requirement. On January 22, 1991, the Aviation Rulemaking Advisory Committee (ARAC) was established (56 FR 2190). The ARAC consists of 59 aviation related organizations brought together to advise the FAA on various regulatory issues. The FAA asked the Air Traffic Subcommittee, an element of the ARAC, to examine the current Mode S requirements for aircraft operating under part 91. The Air Traffic Subcommittee recommended that the FAA: (1) Change the requirements of § 91.215 of the FAR to require installation of Mode S transponders on newly manufactured, type certificated aircraft after July 1, 1996; (2) exempt balloons, gliders, and other aircraft with electrical limitations from the rule; (3) conduct a study of the first Mode S ground sensor installed to determine the extent of benefits derived from the ground sensor alone; (4) publish a progress report within six months after the commissioning of the ground sensor, giving an expected completion date of the study; and (5) examine the costs and benefits of requiring Mode S transponder equipage in specific airspace areas needing such treatment.

The FAA agrees with the ARAC's suggestion that the requirement to install Mode S transponders in general aviation aircraft after July 1, 1992, exceeds the minimum requirements of the present and immediate future for a safe and efficient National Airspace System. While areas of high density aircraft activity might benefit from the improved target and altitude integrity of the Mode S system, many portions of airspace over the country might not require a homogeneous Mode S environment for several years. The recommended study, which the FAA is about to undertake, will show whether the problems that would be solved by a homogeneous Mode S environment are significant enough to warrant mandatory general aviation equipage for operation in all airspace.

Discussion of Comments

Notice 92–6, proposing to rescind the Mode S requirement, was published in the **Federal Register** on May 29, 1992 (57 FR 23038). The NPRM comment period expired June 29, 1992. A total of 15 comments were received. There are 13 comments in favor of the proposal, consisting of five individuals, Piper Aircraft Corporation, the Air Traffic Control Association, Gulfstream Aerospace Corporation, Allied-Signal Aerospace Company, Air Logistics, the National Business Aircraft Association, the General Aviation Manufacturers Association, and the Experimental Aircraft Association.

The Air Line Pilots Association (ALPA) and the Air Transport Association (ATA) submitted the only comments in opposition. ALPA suggest, "The Mode S transponder requirement for aircraft operating under part 91 of the FARS should be retained and a delayed implementation date established." ATA makes the same suggestion. The FAA has not established that the safe and efficient management of the nation's airspace requires equipage of Mode S transponders on general aviation aircraft. The specific needs and benefits of Mode S equipage on commercial aircraft operations include not only increased surveillance, but also interface with collision avoidance systems on board these aircraft. If there is a benefit to the system to be gained by requiring Mode S transponder equipage on general aviation aircraft, it will be realized in dense air traffic areas, where radar surveillance is imperative to safe operations. The FAA has committed to study the need for universal equipage in areas of high aircraft activity and may take additional regulatory action regarding Mode S transponder equipage requirements for general aviation aircraft in response to that study.

ATA asserts that the notice proposing to rescind the Mode S requirement did not adequately recognize the benefits of Mode S equipage prior to completion of the corresponding ground sensors. It also questions the FAA's calculation of the anticipated economic benefits of this rescission. The ATA comments that benefits could be gained as each ground site becomes operational. The FAA does not disagree with that generalization, but has determined that requiring all general aviation operators to install Mode S transponders is not warranted when, for the next several years, few will enter airspace within a ground sensor's coverage. The ATA also contends that the notice is "largely

silent" on the relationship between Mode S transponders and the Traffic Alert and Collision Avoidance Systems (TCAS) that air carriers have been required to install. As the ATA points out, Mode S transponders would improve the interaction with TCAS by reducing garble, interference, and the frequency of interrogation transmissions. Appreciable benefits would only be gained, however, in areas of relatively dense air traffic, such as in Terminal Control Areas (TCA's) and Airport Radar Service Areas (ARSA's). Mode C transponders are already required for all aircraft, including general aviation, operating within 30 miles of a TCA primary airport, and most general aviation aircraft have been equipping with Mode C transponders as a result. The degree to which safety would be further enhanced by a Mode S requirement for general aviation has not yet been established as sufficient, in this respect alone, to justify the requirement.

ATA questions the FAA's economic evaluation. It views the cost estimate for Mode A transponders as too low and Mode S as too high, but it provides no alternative figures that it deems accurate. The FAA obtained the cost data used for the economic evaluation from transponder manufacturers and industry representatives and has no reason to question their validity.

Two commenters agree with the proposal but assert that it does not go far enough. The commenters believe that the FAA should also rescind the Mode S transponder installation requirement for aircraft operating under Part 135 of the FAR. They state that the Mode S transponder requirement places an undue financial burden on businesses operating under Part 135. Although the FAA recognizes this financial burden, it did not propose to withdraw the Mode S requirement for part 135 operators because of the need for the enhanced Mode S integrity in connection with air carrier operations in relatively dense traffic areas. The FAA anticipates however, examining this issue further.

Another commenter recommends enhancing the TSO classifications in the rule with parenthetical descriptions. The FAA accepts this recommendation and has modified the text of the rule accordingly.

The Rule

Until the FAA completes the study to reevaluate the specific need and benefit of Mode S transponder equipage on general aviation aircraft, it is rescinding the Mode S transponder requirement for aircraft operating under part 91 of the Federal Aviation Regulations.

Regulatory Evaluation Summary

This section summarizes the regulatory evaluation prepared by the FAA. The regulatory evaluation provides more detailed information on estimates of the potential economic consequences of this final rule. This summary and the evaluation quantify, to the extent practicable, the estimated costs of the rule to the private sector, consumers, and Federal, State, and local governments, and also the anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this final rule is not "major" as defined in the executive order. Therefore, a full regulatory impact analysis, which includes the identification and evaluation of cost-reducing alternatives to the rule, has not been prepared. Instead, the Agency has prepared a more concise document termed a "regulatory evaluation," which analyzes only this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a regulatory flexibility determination required by the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) and an international trade impact assessment. For more detailed economic information than this summary contains, the reader should consult the regulatory evaluation contained in the docket.

Benefits

The rule will generate benefits in the form of cost relief to part 91 operators who would be required to install Mode S transponders in their aircraft after July 1, 1992. These benefits are estimated to range from $31 million to $63 million (discounted, 1991 dollars). The methodology used to derive this range of potential benefits is discussed below.

This evaluation employed two steps to derive the potential benefits of the rule. First, it was necessary to determine the number of general aviation aircraft operators who would be impacted and the extent they would be impacted. This information was obtained by contacting a number of industry representatives (i.e., transponder manufacturers, fixed based operators (FBOs), and trade associations). The General Aviation Manufacturers Association (GAMA) was contacted for information related to the number of transponders purchased annually by general aviation operators (namely, those operators with small, single-engine, piston aircraft). Based largely on information provided by GAMA, the FAA estimates that sales of transponders (such as ATCRBS) to general aviation operators averaged about 4,000 per year between 1983 and 1987.

From 1988 to 1991, transponder sales to general aviation aircraft operators averaged approximately 7,700 per year. Sales of these transponders peaked at approximately 8,900 units in 1989. For the purpose of this evaluation, sales of these transponders only up to 4,000 between 1988 and 1991 will be counted to exclude sales attributable solely to the requirement, effective July 1, 1989, to install altitude encoding transponders in aircraft operating within 30 miles of any TCA primary airport (Mode C rule). The number of transponders sold between 1983 and 1987 is considered to be more indicative of normal sales. Therefore, the estimate of slightly less than 4,000 has been used as a means of projecting the number of annual transponders sales between 1992 and 2006. This estimate represents the number of new transponders installed annually by general aviation aircraft operators.

Over the next 15 years, an estimated 58,000 transponders could be purchased primarily by small general aviation aircraft operators. However, not all of these transponders would be purchased by general aviation operators after July 1, 1992. The FAA contends that at least half of these general aviation operators would elect to have their existing transponders repaired for under $500 rather than pay five or six times this price for a newly installed Mode S transponder. The Mode S requirement only impacts general aviation operators planning to install any type of new transponder after July 1, 1992.

Because of the lack of precision associated with this assessment, the FAA estimates that 29,000 of 58,000 Mode S transponder purchases would be affected by the installation requirement over the next 15 years.

The low end of this range represents a scenario that assumes demand for Mode S transponders would drop by at least 50 percent after July 1, 1992. This assessment is based largely on

information received from GAMA and conversations with general aviation pilots, who were asked, "In view of the fact that Mode S ground sensor sites will not be in place before late 1995 or early 1996, coupled with the fact that the Mode S rule for general aviation operators takes effect on July 1, 1992, what would be the impact on the annual sales of transponders?" All respondents indicated that the demand for Mode S transponders would drop by 50 to 75 percent for those reasons stated earlier. The high end of this range represents a scenario that assumes demand for transponders would not change from the historical annual sales average of 4,000 units.

The next step in deriving an estimate of potential benefits involved contacting a number of Mode S transponder manufacturers and FBOs. These industry representatives were contacted for the purpose of obtaining cost estimates of acquiring and installing Mode S transponders (without data link capability). According to these industry representatives, the average price (including installation) of a panel mounted Mode S transponder (without data link capability) for a small general aviation aircraft is $3,500 compared to $1,300 to $1,800 for a Mode A or Mode C transponder (in 1991 dollars). The average difference between a Mode S and a Mode A or C transponder is estimated to be $2,000. The representatives also indicated that the cost for biennial maintenance for a Mode S transponder is estimated to be the same as that for a Mode A transponder (ATCRBS), about $60.

Since general aviation aircraft operators are expected to purchase an estimated 4,000 ATCRBS transponders (with and without Mode C capability) annually, over the next 15 years, at an estimated average price of $1,500, the incremental cost of compliance with the Mode S requirement would be $2,000 ($3,500 less $1,500). This evaluation assumes that general aviation aircraft operators would purchase these ATCRBS transponders in the absence of any Mode S requirement. Therefore, rescinding the Mode S requirement for part 91 operators would save them an estimated $2,000 each time they replace their existing ATCRBS transponder with a new one.

From July 1, 1992, to December 30, 2006, the rule is expected to generate potential cost relief benefits ranging from estimates of $58 million (29,000 × $2,000) to $116 million (58,000 × $2,000). Discounted over this 15-year period (using an interest rate of 10 percent), benefits could range from an estimated $31 million to $63 million.

Costs

The rule is not expected to impose any costs (monetary or safety) on either Mode S transponder manufacturers or society. This assessment is based on the rationale contained in the following sections.

Cost Impact on Mode S Transponder Manufacturers

The rule rescinds the Mode S rule requirements for part 91 operators only, and it does not impose any future requirements or costs on manufacturers of panel mounted Mode S transponders. However, some of these manufacturers have incurred costs for developing panel mounted Mode S transponders in response to the Mode S requirement. Such costs, which range from $2 million to $4 million (undiscounted), are sunk. Once an investment is made and cannot be altered, it is referred to as sunk costs. In rulemaking, the economic evaluation considers only future costs as opposed to sunk costs (or passed costs). Even though some manufacturers of panel mounted Mode S transponders cannot recover their development costs, the FAA has determined that the net benefit of the rule is in the interest of the public.

Cost Impact on Society

The rule will not impose societal costs in the form of an unacceptable decrease in aviation safety. An integral part of the Mode S requirement was the ground sensor. These sensors, when combined with aircraft equipped with Mode S transponders, better enable Air Traffic Control to track aircraft positions and provide more interference-free identity reports of targets. This situation would enhance aviation safety by reducing the likelihood of mid-air collisions as the result of having more accurate target information. Since the first phase of 137 ground sensors will not be operational until either late 1995 or early 1996, the full potential benefits of Mode S transponders will not be realized before then. Mode S transponders do, however, complement the TCAS in a manner similar to Mode A transponders. However, without the ground sensors in place, Mode S transponders provide no more benefits than advanced solid state Mode A transponders. Thus, the rule does not effect an unacceptable reduction in aviation safety. In fact, in some instances, the rule enhances aviation safety by allowing the equipage of Mode C transponders rather than the equipage of Mode S transponder with only a Mode A transponder (lacking altitude encoding) capability.

Once the radar ground sensors are in place, aviation safety is expected to be improved by approximately 10 percent over the current radar sensor system. This assessment is based on a 1977 FAA sponsored study which determined that the current radar ground sensors provide an overall target and altitude integrity of 82 to 87 percent. The study also indicated that with Mode S ground sensors and current aircraft transponder equipment (namely, either Mode A or Mode C transponders), integrity would improve to 96 percent. The study went on to postulate that with a homogeneous Mode S environment, consisting of Mode S ground sensors and transponders, integrity would exceed 99 percent. Thus, Mode S transponders would add another 3 percent of improvement to aviation safety.

The final rules for TCAS and Mode C transponders have already achieved much of the improvement in aviation safety expected from the Mode S transponder requirement in the form of lowering the likelihood of mid-air collisions between low and high performance aircraft. The need for part 91 operators to use Mode S transponders will be confirmed in a separate study when installation of the Mode S ground sensors begins.

Comparision of Costs and Benefits

Thus, in view of the estimated zero cost of compliance and the estimated cost relief benefits between $31 million and $63 million (discounted), the FAA has determined that the rule is cost-beneficial.

International Trade Impact Statement

The rule will neither have an effect on the sale of foreign aviation products or services in the United States, nor will it have an effect on the sale of United States products or services in foreign countries. This is because the rule neither imposes costs on aircraft operators nor aircraft manufacturers (U.S. or foreign).

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities." As discussed in the costs section of this evaluation, the rule will not impose costs. Therefore, the rule will not have any significant economic

impact on a substantial number of small entities.

Federalism Implications

This final rule will not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

This rule rescinds an agency regulation and does not change any reporting requirements. Therefore, no Paperwork Reduction Act review or approval is required.

Conclusion

For the reasons discussed in the preamble and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not "major" under Executive Order 12291. In addition, the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is considered "significant" under DOT Regulatory Policies and Procedures (44 FR 111034; February 26, 1979). A regulatory evaluation of the regulation, including a regulatory flexibility determination, and international trade impact analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **"FOR FURTHER INFORMATION CONTACT."**

The public interest demands that this rule become effective immediately upon issuance. This rule relieves the restriction and financial burden of having to install Mode S transponders in general aviation aircraft after July 1, 1992. The FAA thus finds good cause pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days to avoid the disparate impact that would result from having a requirement come into effect only for the duration of the waiting period until its rescission can become effective.

List of Subjects in 14 CFR Part 91

Air traffic control, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration is amending part 91 of the Federal Aviation Regulations (14 CFR part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. App. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Section 91.215 is amended by revising paragraph (a) to read as follows:

§ 91.215 ATC transponder and altitude reporting equipment and use.

(a) *All airspace: U.S.-registered civil aircraft.* For operations not conducted under part 121, 127 or 135 of this chapter, ATC transponder equipment installed must meet the performance and environmental requirements of any class of TSO–C74b (Mode A) or any class of TSO–C74c (Mode A with altitude reporting capability) as appropriate, or the appropriate class of TSO–C112 (Mode S).

* * * * *

Issued in Washington, DC, on July 30, 1992.

Thomas C. Richards,

Administrator.

[FR Doc. 92–18516 Filed 7–31–92; 12:49 pm]

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federal register

Wednesday
August 5, 1992

Part III

Department of Education

34 CFR Parts 316, 318 and 319

Training Personnel for the Education of Individuals With Disabilities—Grants for Personnel Training, Parent Training and Information Centers, and Grants to State Educational Agencies and Institutions of Higher Education; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 316, 318, and 319

RIN 1820-AA95

Training Personnel for the Education of Individuals With Disabilities—Grants for Personnel Training, Parent Training and Information Centers, and Grants to State Educational Agencies and Institutions of Higher Education

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend regulations for the Training Personnel for the Education of Individuals With Disabilities program authority as reauthorized in the Individuals With Disabilities Education Act Amendments of 1991 (1991 Amendments), Public Law 102-119. The regulations conform existing regulations to statutory provisions enacted in the 1991 Amendments; add additional priorities, including priorities pertaining to AMERICA 2000 (the President's strategy for moving the Nation toward the National Education Goals); and include modifications to certain existing regulations.

DATES: Comments must be received on or before September 4, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Max Mueller, DPP, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-2651. Telephone: (202) 732-1554. Deaf and hearing-impaired individuals may call (202) 732-1100 for TDD services.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Max Mueller, DPP, Office of Special Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-2651. Telephone: (202) 732-1554. Deaf and hearing-impaired individuals may call (202) 732-1100 for TDD services.

SUPPLEMENTARY INFORMATION: The major purposes of the proposed regulations are: (1) To incorporate requirements and new program authorities set forth in the 1991 Amendments to the Individuals With Disabilities Education Act (IDEA); (2) to add new priorities; and (3) to make a number of changes to modify the existing regulations and conform them to the 1991 Amendments. The proposed changes are as follows:

Training Personnel for the Education of Individuals With Disabilities—Parent Training and Information Centers—Section 631(d) of IDEA

The regulations have been reorganized to more closely follow the Department's standard format for regulations and the requirements in IDEA dealing with the description of the program, eligible recipients, application requirements, and activities required after an award. In addition, provisions for awards for experimental urban and rural centers and technical assistance to parent programs have been added. Both of these activities are included in IDEA but were previously not incorporated in the regulations. The proposed regulations would establish specific activities, selection criteria, and other requirements for these projects. (The authorization to the Secretary to provide technical assistance has been in the statute for several years; the experimental urban and rural program was added in 1990 by Public Law 101-476).

Experimental urban and rural centers:

• Eligibility for awards is not specified in IDEA. The proposed regulations would limit eligibility to parent organizations. Under the Act, parent organizations are the only eligible recipients of awards for nonexperimental parent centers, and the Secretary believes that the requirements related to parent organizations are appropriate for experimental centers. The broad range of expertise and interests present in parent organizations is needed to address the needs of parents served by experimental centers. (Proposed 34 CFR 316.2).

• Section 631(d)(9) of IDEA requires that experimental urban centers must serve large numbers of parents of children with disabilities located in high density areas, and experimental rural centers must serve large numbers of parents of children with disabilities located in rural areas. Proposed 34 CFR 316.10(b) merely restates this requirement.

• Guidance not specified in IDEA is provided for a number of activities:

—Nonexperimental parent centers under section 631(d)(1) of IDEA are required to assist parents in six specific areas. These areas are listed in section 631(d)(5) of IDEA and are reflected in proposed 34 CFR 316.10(a). The proposed regulations indicate that experimental centers may focus on particular aspects of parent training and information services, including but not limited to those activities required for nonexperimental centers. This is done in order to provide maximum flexibility to the experimental centers in addressing parent needs. Because the experimental centers may require planning and development activities beyond those of nonexperimental centers, the regulations also clarify that experimental centers may include a planning and development phase. (Proposed 34 CFR 316.10(b)).

—To emphasize the flexibility in the approaches that experimental urban centers may take in providing services, the proposed regulations indicate that these centers may concentrate on neighborhoods within a city or serve an entire city, focus on specific unserved groups, or concentrate on a specific area or ethnic group within a city. (Proposed 34 CFR 316.10(b)(1)).

—To focus on the unique problems of rural areas, experimental rural centers are required to serve a large, sparsely settled area and identify specific methods, including the use of technology and telecommunications, to reach parents in these areas. (Proposed 34 CFR 316.10(b)(2)).

• Section 631(d)(2)(C) of IDEA requires that, with regard to nonexperimental centers, parent organizations demonstrate the capacity and expertise to effectively conduct authorized training and information activities, and to network with clearinghouses and other organizations. The proposed regulations extend these requirements to experimental centers because they are equally relevant to and necessary for experimental centers. (Proposed 34 CFR 316.20(a)).

• Because of the great flexibility that experimental urban centers have in determining who they serve, the proposed regulations would require applicants for these awards to provide a rationale for their project, and demonstrate a capability to serve the parents they have identified and targeted for services. (Proposed 34 CFR 316.20(c)).

• Selection criteria for experimental centers are not specified in IDEA. The Secretary believes that the criteria for nonexperimental centers are appropriate for experimental centers as well, and proposes to use those criteria in making awards. (Proposed 34 CFR 316.22).

Technical assistance to parent programs:

• Eligibility for awards is not specified in IDEA. The proposed regulations would limit eligibility to parent organizations. Under the Act,

parent organizations are the only eligible recipients of awards for nonexperimental parent centers, and the Secretary believes that the requirements related to parent organizations are equally critical for the technical assistance provider. The parent organizations receiving technical assistance services would be reluctant to accept an "outside" entity in this role. (Proposed 34 CFR 316.2).

• Several requirements for technical assistance are included in the proposed regulations that are not specified in IDEA. The Act specifies only that the Secretary provide technical assistance for "establishing, developing, and coordinating parent training and information programs." These functions are reflected in proposed 34 CFR 316.10(c). The detailed activities set forth in the proposed regulations are based on the Department's extensive experience in determining activities that are important in carrying out these functions. The proposed regulations state that technical assistance activities must include, but are not limited to:

—Determining national needs and identifying unserved regions and populations. (Proposed 34 CFR 316.10(c)(1)). Because of the national scope of the technical assistance, it is necessary to identify national level needs. In order to identify areas for the establishment of parent programs, it is necessary to identify unserved regions and populations.

—Identifying the specific technical assistance needs of individual centers. (Proposed 34 CFR 316.10(c)(2)). The Secretary believes that to be responsive to the technical assistance needs of parent centers, the technical assistance provided under the program must be responsive to the individual needs of centers.

—Developing programs in unserved areas. (Proposed 34 CFR 316.10(c)(3)). Having identified unserved areas under proposed 34 CFR 316.10(c)(1), it is important to assist in establishing programs in these areas.

—Conducting annual meetings at the national and regional levels. (Proposed 34 CFR 316.10(c)(4)). The Secretary believes that annual meetings are necessary for the development of effective technical assistance tools and efficient dissemination of information.

—Identifying and coordinating national activities to serve parents of children with disabilities. This may include conferences, publications, and maintenance of documents and data relevant to parent programs. (Proposed 34 CFR 316.10(c)(5)). The Secretary believes that it is necessary for the technical assistance provider to identify national activities to serve parents of children with disabilities as part of the process of coordinating these activities, as required by IDEA. Means of identifying and coordinating activities are also mentioned.

—Dissemination of information through media, newsletters, computers, and written documentation. (Proposed 34 CFR 316.10(c)(6)). Dissemination is a major aspect of both developing optimal services and coordinating technical assistance activities. Several means of disseminating information are specified because of their importance in the dissemination process.

—Cooperative activities with other projects and organizations on common goals. (Proposed 34 CFR 316.10(c)(7)). The Secretary believes that cooperative activities should be considered a part of the coordination required by IDEA.

—Evaluation, including determination of the impact of technical assistance activities, and evaluation assistance to centers. (Proposed 34 CFR 316.10(c)(8)). Details are provided regarding the type of evaluation required to ensure that critical areas are addressed.

—Management assistance to centers. (Proposed 34 CFR 316.10(c)(9)). Management assistance is of particular importance in establishing and developing programs. Management assistance to centers is specified to clarify its inclusion in the scope of the technical assistance to be provided.

—Involvement of parent programs and the Department in identifying one or more substantive specialization areas. (Proposed 34 CFR 316.10(c)(10)). The Secretary believes that it is important that both the Department and recipients of technical assistance be involved in identifying specialization areas that address issues and problems that require special attention.

—Acting as a resource to parent training programs in identified specialization areas such as transition, supported employment, early childhood, integration, and technology. (Proposed 34 CFR 316.10(c)(11)). The proposed regulation requires that the technical assistance provider address the specific areas jointly identified by the Department and recipients of technical assistance under proposed 34 CFR 316.10(c)(10).

• Selection criteria for technical assistance projects are not specified in IDEA. The proposed criteria are based on those developed for other technical assistance activities managed by the Office of Special Education Programs. (Proposed 34 CFR 316.23).

Other changes include:

• The words "the Education of" are added to the title of the program to make it consistent with other personnel development programs funded under Part D of the Individuals with Disabilities Education Act.

• The wording for the description of the purpose of the program has been changed to reflect what the program is intended to do (i.e. train parents) as opposed to how it would do it (i.e. support grants). (Proposed 34 CFR 316.1)

• Under applicable regulations, references to EDGAR parts 80 and 86 are deleted because they deal with entities that are not eligible to receive funds under this program. (Proposed 34 CFR 316.4).

• The definition of "children with disabilities" has been deleted. The definition of "children with disabilities" as used in IDEA appears in section 602(a)(1) of the Act. (Proposed 34 CFR 316.5).

• A selection criteria related to how applicants address the needs of parents of minority children with disabilities has been added to help ensure that the needs of these often underserved groups are addressed. (Proposed 34 CFR 316.22(c)(5)). This specific criterion is related to the requirements in this area in proposed 34 CFR 316.20 (a) and (b).

• A selection criterion related to how well the applicants methods of evaluation provide data required for the annual report to Congress has been added to help ensure that data is provided to meet the reporting requirements in section 634 (a)(3) and (b) of IDEA. (Proposed 34 CFR 316.22(d)(3)).

• Additional reporting requirements have been added based on the IDEA amendments in 1991 (see section 631(d)(11)(G) of IDEA). (Proposed 34 CFR 316.32).

• Funding requirements for services to parents of children from birth through age 5 have been added, as required by section 631(d)(10) as amended by the IDEA amendments of 1991. While the amendments relate only to nonexperimental centers, the proposed regulations extend these requirements to experimental centers because of the importance of addressing the needs of children from birth through age 5. (Proposed 34 CFR 316.33).

Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training—Section 631(a)–(c) of IDEA

The regulations have been revised to provide for awards for professional development partnerships and technical assistance to recipients of awards for professional development partnerships. These awards are authorized by the IDEA amendments of 1991 (see section 631(c) of IDEA). The proposed regulations would establish specific activities, selection criteria, and other requirements for these projects. The regulations have also been reorganized to reduce duplication, clarify requirements, and correspond to standard Departmental formats for regulations.

Changes include:

• The program description has been changed to reflect what the program is intended to do (i.e. train personnel) as opposed to how it would do it (i.e. support certain types of training). (Proposed 34 CFR 318.1).

• Eligible applicants for professional development partnerships and technical assistance to recipients of awards for professional development partnerships are incorporated in the proposed regulation consistent with section 631(c)(1) and (3) of IDEA. (Proposed 34 CFR 318.2).

• Several priorities have been added or substantially modified. These priorities are summarized below.

—*Preparation of leadership personnel.* (Proposed 34 CFR 318.11(a)(4)). Training of researchers is no longer required to be at the doctoral or post-doctoral level. The new language parallels section 631(a)(1)(D) of IDEA.

—*Professional development partnerships.* (Proposed 34 CFR 318.11(a)(6)). A priority has been added for professional development partnerships, as authorized under the IDEA amendments of 1991. The language in the proposed priority parallels the language in section 631(d) of IDEA.

—*Technical assistance to professional development partnerships.* A priority has been added for technical assistance to professional development partnerships, as authorized under the IDEA amendments of 1991. Detail activities for technical assistance to professional development partnerships is not specified in IDEA. The proposed regulations state that activities must include, but are not limited to, the following:

—Identifying the specific technical assistance needs of individual projects. (Proposed 34 CFR 318.11(a)(7)(i)). The Secretary believes that identification of needs is a critical step in providing technical assistance.

—Conducting annual meetings at the national level. (Proposed 34 CFR 318.11(a)(7)(ii)). The Secretary believes that annual meetings at the national level are necessary for the development of effective technical assistance tools and the efficient dissemination of information.

—Identifying other projects under the Act related to professional development for the purpose of coordinating professional development projects. Coordination activities may include conferences, publications, and maintenance of documents and data relevant to the activities of the professional development projects. (Proposed 34 CFR 318.11(a)(7)(iii)). The technical assistance provider is required to coordinate with other professional development projects in order to avoid duplication of effort, access the latest information on best practices, and focus resources on areas of greatest need.

—Disseminating information through media, newsletters, computers, and written documentation. (Proposed 34 CFR 318.11(a)(7)(v)). Dissemination is a major aspect of both developing optimal services and coordinating technical assistance activities. Several means of disseminating information are specified because of their importance in the dissemination process.

—Cooperating with other projects and organizations on common goals. (Proposed 34 CFR 318.11(a)(7)(iv)). The Secretary believes that cooperative activities will enhance the effectiveness of the assistance provided.

—Evaluating center activities, including impact determination, and evaluation assistance to projects. (Proposed 34 CFR 318.11(a)(7)(vi)). Details are provided regarding the type of evaluation required to ensure that critical areas are addressed.

—*Training personnel to serve low incidence disabilities.* (Proposed 34 CFR 318.11(a)(10)). Serious emotional disturbance is deleted because it is not low incidence. Autism and traumatic brain injury are added because they are now specifically referenced in IDEA and are low incidence.

—*Minority institutions.* (Proposed 34 CFR 318.11(a)(16)). The priority has been changed to make it consistent with the areas covered by section 631(a)(7) of IDEA.

—*Preparing personnel to meet the National Education Goals.* (Proposed 34 CFR 318.11(a)(17)). This new priority is funded as an invitational priority in 1992. This area represents a major initiative of the Department, and provides a vehicle for assuring attention to this initiative in the Preparation of Personnel for Individuals with Disabilities program.

—*Interpreter training.* (Proposed 34 CFR 318.11(a)(18)). This new priority is funded as an invitational priority in 1992.

—A new section is added that allows the Secretary to target resources under any of the 19 priorities to children with particular disabilities and in particular States or geographic areas. This proposed provision is added to give the Secretary increased ability to target resources on areas of need. (Proposed 34 CFR 318.11(b))

• Applicants for special projects are no longer required to provide information on needs identified in comprehensive systems of personnel development, strategies for recruiting and training minorities, and certain special training techniques. (Proposed 34 CFR 318.20). The current regulations in § 318.20 (a), (b), and (d), 56 FR 57202 (November 7, 1991), require applicants for special projects to provide information in these areas. Under the proposed regulation only § 318.20(c) (demonstration of how the applicant will address the needs of infants, toddlers, children, and youth with disabilities from minority backgrounds) continues to be applicable to special projects. Paragraphs (a), (b), and (d), are relevant to the delivery of personnel training, but are not appropriate requirements for applicants for special projects, that develop and demonstrate ways for training personnel.

• Selection criteria for technical assistance projects are not found in IDEA. The proposed criteria are based on those developed for other technical assistance activities managed by the Office of Special Education Programs. (Proposed 34 CFR 318.24).

• Eligibility for student financial assistance is extended to students who provide evidence from the U.S. Immigration and Naturalization Service that they are permanent residents of the U.S. or are in the U.S. for other than temporary purposes with the intention of becoming citizens or permanent residents. This extension is consistent with regulations implementing the student financial assistance provisions of the Higher Education Act. See 34 CFR 668.7(a)(4) and 20 U.S.C. 1091. In addition, eligibility has been extended

to permanent residents of the Commonwealth of the Northern Mariana Islands to the extent that they are not deemed to be United States citizens by virtue of section 301 of Pub. L. 94–241 (1976), and to permanent residents of Palau, who are not citizens or nationals of the United States. These additions have been made because both the Commonwealth of the Northern Mariana Islands and Palau are considered States under IDEA. (Proposed 34 CFR 318.32).

Training Personnel for the Education of Individuals with Disabilities—Grants to State Educational Agencies and Institutions of Higher Education—Section 632 of IDEA

The regulations have been reorganized to more closely follow the Department's standard format for regulations, including retitling section descriptions and reorganizing information dealing with eligible recipients, application requirements, and activities required after an award. In addition, provisions for awards for technical assistance to recipients of grants to State educational agencies and institutions of higher education have been added. This activity is specifically authorized under IDEA (added by the 1990 amendments), but was previously not incorporated in regulations. The proposed regulations would establish specific activities, selection criteria, and other requirements for these projects.

Technical assistance:

• Eligible applicants are not specified in IDEA. The Secretary has proposed that both profit and nonprofit organizations and agencies be eligible recipients in order to obtain the highest quality technical assistance. (Proposed 34 CFR 319.2(c)).

• IDEA authorizes the Secretary to provide technical assistance to State educational agencies in the implementation of the requirements of section 613(a)(3) of IDEA, which addresses comprehensive systems of personnel development (CSPD). However, IDEA does not provide detailed activities related to this technical assistance. Specific required activities have been added in the proposed regulations based on the Office of Special Education Programs' experience with other technical assistance projects. These activities have been adjusted for specific issues involving CSPDs. The proposed regulations state that activities must include, but are not limited to, the following:

—Monitoring personnel needs in the States. (Proposed 34 CFR 319.3(c)(1)(i)). The technical assistance provider must be familiar with personnel needs data in order to provide appropriate technical assistance.

—Analyzing strategies to determine needs for preparation of professionals so as to meet the needs of children with disabilities. (Proposed 34 CFR 319.3(c)(1)(ii)). The technical assistance provider needs to analyze strategies for determining professional development needs in each State in order to assist States in addressing those needs.

—Identifying, designing, adapting, testing, and disseminating new professional preparation strategies. (Proposed 34 CFR 319.3(c)(1)(iii)). The Secretary believes that, in order to be most effective, the technical assistance provider needs to engage in developing professional development strategies that will meet the needs of the States.

—Providing technical assistance in the personnel development, recruitment, and retention areas. (Proposed 34 CFR 319.3(c)(1)(iv)). The Department has identified personnel development, recruitment, and retention as primary areas where the States require technical assistance.

—Determining national needs and identifying unserved regions and populations. (Proposed 34 CFR 319.3(c)(2)(i)). The Secretary believes that an overview of national needs is necessary for the technical assistance provider to direct efforts to the most critical areas.

—Identifying the specific technical assistance needs of individual States related to professional preparation. (Proposed 34 CFR 319.3(c)(2)(ii)). The technical assistance provider must be able to tailor its activities to the varying needs for assistance among the States.

—Conducting annual meetings at national and regional levels. (Proposed 34 CFR 319.3(c)(2)(iii)). The Secretary believes that annual meetings at the national and regional levels are necessary for the development of effective technical assistance tools and the efficient dissemination of information.

—Dissemination of information through media, newsletters, computers, and written documentation. (Proposed 34 CFR 319.3(c)(2)(iv)). Dissemination is a major aspect of both developing optimal services and coordinating technical assistance activities. Several means of disseminating information are specified because of their importance in the dissemination process.

—Cooperative activities among personnel development projects and organizations on common goals. (Proposed 34 CFR 319.3(c)(2)(v)). The technical assistance provider is required to cooperate with other personnel development projects and organizations in order to avoid duplication of effort, access the latest information on best practices, and focus resources on areas of greatest need.

—Evaluation, including impact determination, and evaluation assistance to other personnel development projects. (Proposed 34 CFR 319.3(c)(2)(vi)). Details are provided regarding the type of evaluation required to ensure that critical areas are addressed.

• Selection criteria for technical assistance projects are not specified in IDEA. The proposed criteria are based on those developed for other technical assistance activities managed by the Office of Special Education Programs. (Proposed 34 CFR 319.24).

Other changes include:

• The wording for the description of the program has been changed to reflect more closely the purpose stated in section 632 of IDEA, rather than the types of projects that are funded. (Proposed 34 CFR 319.1).

• A competitive grant focus on "particularly high priority issues with potential for broad generalizability" has been added. This requirement is added to increase the potential impact of these awards. (Proposed 34 CFR 319.3).

• The formula for distributing funds for basic State grants has been revised to raise the minimum allocation and give the Secretary some flexibility in determining the exact amount of the minimum allocation. Section 632(a) of IDEA requires the Secretary to make grants of sufficient size and scope to address needs. The proposed regulations increase the Secretary's discretion to determine what constitutes sufficient size and scope based on changes in circumstances. The proposed regulations also provide for increases for all States above the minimum funding level. The current regulations distribute funds first based on the number of children served in each State. States below the minimum funding level are then raised to that level. Under this formula, many States receive only minimum allocations and are not affected by changes in overall funding for the basic State grants. The proposed regulations would first provide a minimum amount to each State and then distribute additional funds based on the number of children served in each State.

Under this method, funding for each State would rise or fall with the total funding for the program. (Proposed 34 CFR 319.21).

• Eligibility for student financial assistance is extended to students who provide evidence from the U.S. Immigration and Naturalization Service that they are permanent residents of the U.S. or are in the U.S. for other than temporary purposes with the intention of becoming citizens or permanent residents. This extension is consistent with regulations implementing the student financial assistance provisions of the Higher Education Act. See 34 CFR 668.7(a)(4) and 20 U.S.C. 1091. In addition, eligibility has been extended to permanent residents of the Commonwealth of the Northern Mariana Islands to the extent that they are not deemed to be United States citizens by virtue of section 301 of Public Law 94–241 (1976), and to permanent residents of Palau, who are not citizens or nationals of the United States. These additions have been made because both the Commonwealth of the Northern Mariana Islands and Palau are considered States under IDEA. (Proposed 34 CFR 319.31).

These programs support AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals. Specifically, these programs support AMERICA 2000's call for creating better and more accountable schools. They also seek to provide assistance to help students with disabilities reach the high levels of academic achievement called for in AMERICA 2000.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these regulations are small nonprofit agencies receiving Federal funds under this program. However, the regulations would not have a significant economic impact on these organizations because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 316.20, 316.22, 316.21, 316.31, 316.32, 318.20, 318.22, 318.23, 318.24, 318.34, 319.10, 319.23, 319.24, and 319.33 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

These regulations affect States, private nonprofit entities, and institutions of higher education that are eligible to receive awards under this program. The Department needs and uses the information to evaluate the applications and select the entities that will receive awards.

Annual public reporting and recordkeeping burden for this collection of information is expected to average 40 hours per response for 1,000 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 3072, Switzer Building, 330 C Street SW., Washington, DC between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly invites comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 316

Act, Children with disabilities, Parents, Parent organizations, Reporting and recordkeeping requirements.

34 CFR Part 318

Education, Education of individuals with disabilities, Education—training, Grant programs—education, Student aid, Teachers, Reporting and recordkeeping requirements. 34 CFR Part 319

Education, Education of individuals with disabilities, Education—training, Grant programs—education, Student aid, Teachers.

Dated: April 10, 1992.

Lamar Alexander,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.029—Training Personnel for the Education of Individuals with Disabilities)

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising parts 316, 318, and 319 to read as follows:

PART 316—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES—PARENT TRAINING AND INFORMATION CENTERS

Subpart A—General

Sec.

Authority: 20 U.S.C. 1431(d) and 1434, unless otherwise noted.

Subpart A—General

§ 316.1 What is the Training Personnel for the Education of Individuals with Disabilities—Parent Training and Information Centers Program?

(a) This program provides training and information to parents of children (infants, toddlers, children, and youth) with disabilities, and to persons who work with parents to enable parents to participate more fully and effectively with professionals in meeting the educational needs of their children with disabilities.

(b) Parent training and information programs may, at a grantee's discretion, include participation of State or local educational agency personnel if that participation will further an objective of the program assisted by the grant.

(Authority: 20 U.S.C. 1431(d))

§ 316.2 Who is eligible for an award?

Only parent organizations are eligible to receive awards under this program.

(Authority: 20 U.S.C. 1431(d))

§ 316.3 What kinds of projects may the Secretary fund?

The Secretary funds three kinds of projects under this program:

(a) Parent training and information centers.

(b) Experimental urban and rural parent training and information centers.

(c) Technical assistance for establishing, developing, and coordinating parent training and information programs.

(Authority: 20 U.S.C. 1431(d))

§ 316.4 What regulations apply to this program?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in the following parts of Title 34 of the Code of Federal Regulations:

(1) Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) Part 75 (Direct Grant Programs).

(3) Part 77 (Definitions That Apply to Department Regulations).

(4) Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) Part 81 (General Education Provisions Act—Enforcement).

(6) Part 82 (New Restrictions on Lobbying).

(7) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for a Drug-Free Workplace (Grants)).

(b) The regulations in this Part 316.

(Authority: 20 U.S.C. 1431(d); 20 U.S.C 3474(a))

§ 316.5 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
EDGAR
Fiscal year
Local educational agency
Nonprofit
Private
Project
Secretary
State
State educational agency

(b) *Definitions in 34 CFR part 300.* The following terms used in this part are defined in 34 CFR part 300:

Individualized education program
Parent
Related services
Special education

(c) *Other definitions specific to 34 CFR part 316.* The following terms used in this part are defined as follows:

Act means the Individuals with Disabilities Education Act (IDEA).

Parent organization means a private nonprofit organization that is governed by a board of directors of which a majority of the members are parents of children with disabilities—particularly minority parents—that includes members who are professionals—especially minority professionals—in the fields of special education, early intervention, and related services, and individuals with disabilities. If the private nonprofit organization does not have such a board, the organization must have a membership that represents the interests of individuals with disabilities, and must establish a special governing committee of which a majority of the members are parents of children with disabilities—particularly parents of minority children—and that includes members who are professionals—especially minority professionals—in the fields of special education, early intervention, and related services. Parent and professional membership of these boards or special governing committees must be broadly representative of minority and other individuals and groups having an interest in special education, early intervention, and related services.

(Authority: 20 U.S.C. 1431(d))

Subpart B—What Activities Does the Secretary Assist Under This Program?

§ 316.10 What activities may the Secretary fund?

(a) Parent training and information centers assisted under § 316.3(a) must assist parents to—

(1) Better understand the nature and needs of the disabling conditions of their children with disabilities;

(2) Provide follow-up support for the educational programs of their children with disabilities;

(3) Communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

(4) Participate fully in educational decisionmaking processes, including the development of the individualized education program, for a child with a disability;

(5) Obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to children with disabilities, and their families; and

(6) Understand the provisions for educating children with disabilities under the Act.

(b) Experimental urban centers under § 316.3(b) must serve large numbers of parents of children with disabilities located in high density areas, and experimental rural centers under § 316.3(b) must serve large numbers of parents of children with disabilities located in rural areas. The centers may

focus on particular aspects of parent training and information services, including but not limited to those activities required under § 316.10(a). Experimental projects may include a planning and development phase.

(1) Experimental urban centers may concentrate on neighborhoods within a city or focus on specific unserved groups. They may serve an entire city or concentrate on a specific area or ethnic group within a city.

(2) Experimental rural centers must serve a large, sparsely settled area. Projects must identify specific methods, including use of technology and telecommunications, to reach these parents.

(c) The technical assistance to parent programs under § 316.3(c) includes technical assistance for establishing, developing, and coordinating parent training and information programs. Activities must include, but are not limited to the following:

(1) Determining national needs and identifying unserved regions and populations.

(2) Identifying the specific technical assistance needs of individual centers.

(3) Developing programs in unserved areas.

(4) Conducting annual meetings at national and regional levels.

(5) Identifying and coordinating national activities to serve parents of children with disabilities. This may include conferences, publications, and maintenance of documents and data relevant to parent programs.

(6) Dissemination of information through media, newsletters, computers, and written documentation.

(7) Cooperative activities with other projects and organizations on common goals.

(8) Evaluation, including determination of the impact of technical assistance activities, and evaluation assistance to centers.

(9) Management assistance to centers.

(10) Involvement of parent programs and the Department in identifying one or more substantive specialization areas.

(11) Acting as a resource to parent training programs in identified specialization areas such as transition, supported employment, early childhood, integration, and technology.

(Authority: 20 U.S.C. 1431(d))

Subpart C—How Does the Secretary Make an Award?

§ 316.20 What are the requirements for applicants?

(a) Applicants for awards for parent centers and experimental centers under § 316.3 (a) and (b) must demonstrate the capacity and expertise to conduct the authorized training and information activities effectively, and to network with clearinghouses, including those authorized under section 633 of the Act, other organizations and agencies, and other established national, State, and local parent groups representing the full range of parents of children with disabilities—especially parents of minority children.

(b) In order to assure that awards for parent centers under § 316.3(a) serve parents of minority children with disabilities (including parents served pursuant to § 316.33) "representative to the proportion of the minority population in the areas being served", applicants for awards must identify with specificity the special efforts that will be undertaken to involve those parents, including efforts to work with community-based and cultural organizations and the specification of supplementary aids, services, and supports that will be made available. Applicants must also specify budgetary items earmarked to accomplish these efforts.

(c) Applicants for awards for experimental urban centers must provide a rationale for their project and demonstrate a capability to serve the parents they have identified and targeted for services.

(Authority: 20 U.S.C. 1431(d))

§ 316.21 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in §§ 316.22 and 316.23.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1431(d))

§ 316.22 What selection criteria does the Secretary use to evaluate applications for parent centers and experimental centers?

The Secretary uses the following criteria to evaluate applications for parent centers and experimental centers:

(a) *Extent of present and projected need.* (15 points) The Secretary reviews each application to determine the extent to which the project makes an impact on parent training and information needs, consistent with the purposes of the Act, including consideration of the impact on—

(1) The present and projected needs in the applicant's geographic area for trained parents;

(2) The present and projected training and information needs for personnel to work with parents of children with disabilities; and

(3) Parents of minority infants, toddlers, children, and youth with disabilities.

(b) *Anticipated project results.* (25 points) The Secretary reviews each application to determine the extent to which the project will assist parents to—

(1) Better understand the nature and needs of the disabling conditions of their children with disabilities;

(2) Provide follow-up support for the educational programs of their children with disabilities;

(3) Communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

(4) Participate fully in educational decisionmaking processes, including the development of the individualized educational program, for a child with a disability;

(5) Obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to children with disabilities and their families; and

(6) Understand the provisions for educating children with disabilities under the Act.

(c) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) High quality in the design of the project;

(2) An effective management plan that ensures proper and efficient administration of the project;

(3) How the objectives of the project relate to the purpose of the program;

(4) The way the applicant plans to use its resources and personnel to achieve each objective; and

(5) How the applicant addresses the needs of parents of minority infants, toddlers, children, and youth with disabilities.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project;

(2) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.); and

(3) Provide the data required for the annual report to Congress.

(See 20 U.S.C. 1434 (a)(3) and (b))

(e) *Quality of key personnel.* (15 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used on the project;

(3) The time each of the key personnel plans to commit to the project;

(4) How the applicant, as a part of its nondiscriminatory practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability; and

(5) Evidence of the applicant's past experience in the fields relating to the objectives of the project.

(f) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1431(d))

§ 316.23 What selection criteria does the Secretary use to evaluate applications for technical assistance activities?

The Secretary uses the following criteria to evaluate applications for technical assistance activities:

(a) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) High quality in the design of the project;

(2) An effective plan of management that ensures proper and efficient administration of the project;

(3) A clear description of how the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(b) *Program content.* (20 points) The Secretary reviews each application to determine—

(1) The project's potential for national significance, its potential for effectiveness, and the quality of its plan for dissemination of the results of the project;

(2) The extent to which substantive content and organization of the program—

(i) Are appropriate for the attainment of knowledge that is necessary for the provision of quality educational and early intervention services to infants, toddlers, children, and youth with disabilities; and

(ii) Demonstrate an awareness of relevant methods, procedures, techniques, technology, and instructional media or materials that can be used in the development of a model to assist parents of infants, toddlers, children, and youth with disabilities; and

(3) The extent to which program philosophy, objectives, and activities are related to the educational or early intervention needs of infants, toddlers, children, and youth with disabilities.

(c) *Applicant experience and ability.* (15 points) The Secretary looks for information that shows the applicant's—

(1) Experience and training in fields related to the objectives of the project;

(2) National experience relevant to performance of the functions supported by this program;

(3) Ability to conduct the proposed project;

(4) Ability to communicate with intended consumers of information; and

(5) Ability to maintain necessary communication and coordination with other relevant projects, agencies, and organizations.

(d) *Quality of key personnel.* (10 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The time that each of the key personnel plans to commit to the project;

(4) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability; and

(5) Evidence of the key personnel's past experience and training in fields related to the objectives of the project.

(e) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project; and

(2) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

(f) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(g) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1431(d))

§ 316.24 What additional factors does the Secretary consider?

In addition to the criteria in § 316.22, the Secretary considers the following factors in making an award:

(a) *Geographic distribution.* In selecting projects for awards for parent centers under § 316.3(a), the Secretary ensures that, to the greatest extent possible, awards are distributed geographically, on a State or regional basis, throughout all the States and serve parents of children with disabilities in both urban and rural areas.

(b) *Unserved areas.* In selecting projects for parent centers under § 316.3(a) and experimental centers under § 316.3(b), the Secretary gives priority to applications that propose to serve unserved areas.

(Authority: 20 U.S.C. 1431(d))

Subpart D—What Conditions Must a Grantee Meet?

§ 316.30 What types of services are required?

(a) Parent centers and experimental centers must be designed to meet the unique training and information needs of parents of children with disabilities who live in the areas to be served by the project, particularly those who are members of groups that have been traditionally underrepresented.

(b) Parent centers and experimental centers must consult and network with appropriate national, State, regional, and local agencies and organizations that serve or assist children with disabilities and their families in the geographic areas served by the project.

(Authority: 20 U.S.C. 1431(d))

§ 316.31 What are the duties of the board of directors or special governing committee of a parent organization?

A recipient's board of directors or special governing committee as described in § 316.5 must meet at least once in each calendar quarter to review the parent training and information activities under the award. Whenever a private nonprofit organization requests a renewal of a award under this part,

the board of directors or special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by that private nonprofit organization during the preceding fiscal year.

(Authority: 20 U.S.C. 1431(d))

§ 316.32 What are the reporting requirements under this program?

(a) Recipients shall, if appropriate, prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of these procedures, findings, and information. The Secretary requires their delivery, as appropriate, to the Regional and Federal Reserve Centers, the Clearinghouses, and the Technical Assistance to Parents Program (TAPP) assisted under Parts C and D of the Act, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental Health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and other networks the Secretary may determine to be appropriate.

(b) The recipient shall provide data for every year of the project on—

(1) The number of parents provided information and training by disability category of their children;

(2) The types and modes of information or training provided;

(3) Strategies used to reach and serve parents of minority children with disabilities;

(4) The number of parents served as a result of activities described under paragraph (b)(3) of this section;

(5) Activities to network with other information clearinghouses and parent groups as required by § 316.20(a);

(6) The number of agencies and organizations consulted with at the national, State, regional, and local levels; and

(7) The number of parents served who are parents of children with disabilities birth through age five.

(Authority: 20 U.S.C. 1409(g); 20 U.S.C. 1434(a)(3))

§ 316.33 What other conditions must be met by grantees under this program?

(a) In the case of a grant for parent centers under § 316.3(a) and experimental centers under § 316.3(b) to a private nonprofit organization for fiscal year 1993 or 1994, the organization, in expending the amounts described in paragraph (b) of this section, shall give priority to providing services to parents of children with disabilities birth through age five.

(b) With respect to a grant for a parent center or an experimental center to a private nonprofit organization for fiscal year 1993 or 1994, the amounts referred to in paragraph (a) of this section are any amounts provided in the grant in excess of the amount of any grant under this program provided to the organization for fiscal year 1992.

(c) Recipients of awards for parent centers and experimental centers must serve parents of children representing the full range of disabling conditions.

(Authority: 20 U.S.C. 1431(d))

PART 318—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES—GRANTS FOR PERSONNEL TRAINING

Subpart A—General

Sec.

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

Subpart C—How Does the Secretary Make an Award?

Subpart D—What Conditions Must a Grantee Meet?

Authority: 20 U.S.C. 1431(a)-(c) and 1434, unless otherwise noted.

Subpart A—General

§ 318.1 What is the purpose of the Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training program?

This program serves to increase the quantity and improve the quality of personnel available to serve infants, toddlers, children, and youth with disabilities.

(Authority: 20 U.S.C. 1431(a)-(c))

§ 318.2 Who is eligible for an award?

The following are eligible for assistance under this part:

(a) Institutions of higher education and appropriate nonprofit agencies are eligible under § 318.10(a)(1) and (2).

(b) Institutions of higher education, State agencies, and other appropriate nonprofit agencies are eligible under § 318.10(a)(3).

(c) States or other entities are eligible under § 318.10(a)(4) and (5). An entity may not receive financial assistance for a professional development partnership project and a technical assistance project during the same period.

(Authority: 20 U.S.C. 1431(a)-(c))

§ 318.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in the following parts of Title 34 of the Code of Federal Regulations:

(1) Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) Part 75 (Direct Grant Programs).

(3) Part 77 (Definitions that Apply to Department Regulations).

(4) Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) Part 81 (General Education Provisions Act—Enforcement).

(7) Part 82 (New Restrictions on Lobbying).

(8) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) Part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this Part 318.

(Authority: 20 U.S.C. 1431(a)–(c); 20 U.S.C. 3474(a))

§ 318.4 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
EDGAR
Fiscal year
Grant period
Local educational agency
Nonprofit
Preschool
Private
Project
Public
Secretary
State
State educational agency

(b) *Definitions in 34 CFR part 300.* The following terms used in this part are defined in 34 CFR part 300:

Deafness
Deaf-blindness
Other health impairments
Related services
Special education

(c) *Definitions specific to 34 CFR part 318.* The following terms used in this part are defined as follows:

Act means the Individuals with Disabilities Education Act (IDEA).

Infants and toddlers with disabilities. (1) The term means individuals from birth through age two who need early intervention services because they—

(i) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: cognitive development, physical development, including vision and hearing, language and speech development, psychosocial development, or self-help skills; or

(ii) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(2) The term also includes children from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided.

(Authority: 20 U.S.C. 1401; 20 U.S.C. 1431(a)–(c); 20 U.S.C. 1472)

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 318.10 What activities may the Secretary fund?

(a) The Secretary supports training programs in the following five areas:

(1) Preservice training of personnel for careers in special education, related services, and early intervention, including careers in—

(i) Special education teaching, including speech-language pathology, audiology, adapted physical education, and instructional and assistive technology;

(ii) Related services for children with disabilities in educational and other settings; and

(iii) Early intervention and preschool services.

(2) Leadership training, including—(i) Supervision and administration at the advanced graduate, doctoral, and post-doctoral levels;

(ii) Research at the doctoral and post-doctoral levels; and

(iii) Personnel preparation at the doctoral and post-doctoral levels.

(3) Special projects designed to include—(i) Development, evaluation, and distribution of innovative approaches, curricula, and materials for personnel development; and

(ii) Other projects of national significance related to the preparation of personnel needed to serve infants, toddlers, children, and youth with disabilities.

(4) The formation of professional development programs consisting of consortia or partnerships of public and private entities.

(5) Technical assistance to the entities in paragraph (a)(4) of this section.

(b) Projects for preservice training, leadership training, and professional development programs must—

(1) Develop new programs to establish expanded capacity for quality preservice training; or

(2) Improve existing programs designed to increase the capacity and quality of preservice training.

(c) Projects supported under this program may provide training for degree, nondegree, certified, and noncertified personnel at associate degree through post-doctoral levels of preparation.

(Authority: 20 U.S.C. 1431(a)–(c))

§ 318.11 What priorities may the Secretary establish?

(a) The Secretary may select annually one or more of the following priority areas for funding:

(1) *Preparation of personnel for careers in special education.* This priority supports preservice preparation of personnel for careers in special education. Preservice training includes additional training for currently employed teachers seeking additional degrees, certifications, or endorsements. Training at the baccalaureate, masters, or specialist level is appropriate. Under this priority, "personnel" includes special education teachers, speech-language pathologists, audiologists, adapted physical education teachers, vocational educators, and instructive and assistive technology specialists.

(2) *Preparation of related services personnel.* This priority supports preservice preparation of individuals to provide developmental, corrective, and other supportive services that assist children and youth with disabilities to benefit from special education. These include paraprofessional personnel, therapeutic recreation specialists, school social workers, health service providers, physical therapists, occupational therapists, school psychologists, counselors (including rehabilitation counselors), interpreters, orientation and mobility specialists, respite care providers, art therapists, volunteers, physicians, and other related services personnel.

(i) Projects to train personnel identified as special education personnel in the regulations in this part are not appropriate, even if those personnel may be considered related services personnel in other settings.

(ii) This priority is not designed for general training. Projects must include inducements and preparation to increase the probability that graduates will direct their efforts toward supportive services to special education. For example, a project in occupational therapy (OT) might support a special component on pediatric or juvenile psychiatric OT, support those students whose career goal is OT in the schools, or provide for practica and internships in school settings.

(3) *Training early intervention and preschool personnel.* This priority supports projects that are designed to provide preservice preparation of personnel who serve infants, toddlers, and preschool children with disabilities, and their families. Personnel may be prepared to provide short-term services or long-term services that extend into a child's school program. The proposed training program must have a clear and limited focus on the special needs of children within the age range from birth through five, and must include consideration of family involvement in early intervention and preschool services. Training programs under this priority must have a significant interdisciplinary focus.

(4) *Preparation of leadership personnel.* This priority supports projects that are designed to provide preservice professional preparation of leadership personnel in special

education, related services, and early intervention. Leadership training is considered to be preparation in—

(i) Supervision and administration at the advanced graduate, doctoral, and post-doctoral levels;

(ii) Research; and

(iii) Personnel preparation at the doctoral and postdoctoral levels.

(5) *Special projects.* This priority supports projects that include development, evaluation, and distribution of innovative approaches to personnel preparation; development of curriculum materials to prepare personnel to educate or provide early intervention services; and other projects of national significance related to the preparation of personnel needed to serve infants, toddlers, children, and youth with disabilities.

(i) Appropriate areas of interest include—

(A) Preservice training programs to prepare regular educators to work with children and youth with disabilities and their families;

(B) Training teachers to work in community and school settings with children and youth with disabilities and their families;

(C) Inservice and preservice training of personnel to work with infants, toddlers, children, and youth with disabilities and their families;

(D) Inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families;

(E) Preservice and inservice training of special education and related services personnel in instructive and assistive technology to benefit infants, toddlers, children, and youth with disabilities; and

(F) Recruitment and retention of special education, related services, and early intervention personnel.

(ii) Both inservice and preservice training must include a component that addresses the coordination among all service providers, including regular educators.

(6) *Professional development partnerships.* This priority, listed in § 318.10(a)(4), supports the formation of consortia or partnerships of public and private entities for the purpose of providing opportunities for career advancement or competency-based training, including but not limited to certificate- or degree-granting programs in special education, related services, and early intervention for current workers at public and private agencies that provide services to infants, toddlers, children, and youth with disabilities. Activities authorized under this priority include, but are not limited to, the following:

(i) Establishing a program with colleges and universities to develop creative new programs and coursework options or to expand existing programs in the field of special education, related services, or early intervention. Funds may be used to provide release time for faculty and staff for curriculum development, instructional costs, and modest start-up and other program development costs.

(ii) Establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, county, and voluntary sector workers who have demonstrated a commitment to working in these fields and who are enrolled in higher education institution programs relating to these fields.

(iii) Supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in these fields.

(iv) Identifying existing public agency, private agency, and labor union personnel policies and benefit programs that may facilitate the ability of workers to take advantage of higher education opportunities such as leave time and tuition reimbursement.

(7) *Technical assistance to professional development partnerships.* This priority, listed in § 318.10(a)(5), supports technical assistance to States or entities receiving awards under professional development partnership projects. Activities must include, but are not limited to, the following:

(i) Identifying the specific technical assistance needs of individual projects.

(ii) Conducting annual meetings at the national level.

(iii) Identifying other projects under the Act related to professional development for the purpose of coordinating professional development projects. Coordination activities may include conferences, publications, and maintenance of documents and data relevant to the activities of the professional development projects.

(iv) Cooperating with other projects and organizations on common goals.

(v) Disseminating information through media, newsletters, computers, and written documentation.

(vi) Evaluating center activities, including impact determination, and evaluation assistance to centers.

(8) *Utilizing innovative recruitment and retention strategies.* This priority supports projects to develop emerging and creative sources of supply of personnel with degrees and certification in appropriate disciplines, and innovative strategies related to recruitment and retention of personnel.

(9) *Promoting full qualifications for personnel serving infants, toddlers, children, and youth with disabilities.* This priority supports projects designed specifically to train personnel who are working with less than full certification or outside their field of specialization, to assist them in becoming fully qualified. The following are appropriate under this priority: student incentives; extension, summer, and evening programs; internships; alternative certification plans; and other innovative practices.

(10) *Training personnel to serve low incidence disabilities.* This priority supports projects to train teachers of children with visual impairments including blindness, hearing impairments including deafness, orthopedic impairments, other health impairments, autism, traumatic brain injury, and severe and multiple disabilities.

(11) *Training personnel to work in rural areas.* This priority supports projects to train personnel to serve infants, toddlers, children, and youth with disabilities in rural areas. Projects, including curricula, procedures, practica, and innovative use of technology, must be designed to provide training to assist personnel to work with parents, teachers, and administrators in these special environments. Special strategies must be designed to recruit personnel from rural areas who will most likely return to those areas.

(12) *Training personnel to provide transition assistance from school to adult roles.* This priority supports projects for preparation of personnel who assist youth with disabilities in their transition from school to adult roles. Personnel may be prepared to provide short-term transition services, long-term structured employment services, or instruction in community and school settings with secondary school students. It is especially important that preparation of transition personnel include training in instructional and assistive technology.

(13) *Preparation of paraprofessionals.* This priority supports projects for the preparation of paraprofessionals. This includes programs to train teacher aids, job coaches, interpreters, therapy assistants, and other personnel who provide support to professional staff in delivery of services to infants, toddlers, children, and youth with disabilities.

(14) *Improving services for minorities.* This priority supports projects to prepare personnel to serve infants,

toddlers, children, and youth with disabilities who, because of their minority status, require that personnel obtain professional competencies in addition to those needed to teach other children with similar disabilities. Projects funded under this priority must focus on specific minority populations, determine the additional competencies that are needed by professionals serving those populations, and develop those competencies.

(15) *Training minorities and individuals with disabilities.* This priority supports projects to recruit and prepare minority individuals and individuals with disabilities for careers in special education, related services, and early intervention.

(16) *Minority institutions.* This priority supports awards to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent. Awards may provide training of personnel in all areas noted in § 318.10(a)(1) and (2), and must be designed to increase the capabilities of the institution in appropriate training areas.

(17) *Preparing personnel to meet the National Education Goals.* This priority supports projects that develop or expand innovative preservice and inservice training programs that are designed to provide personnel serving children with disabilities with skills that are needed to help schools meet the National Education Goals. These programs must promote the following:

(i) Increased collaboration among providers of special education, regular education, bilingual education, migrant education, and vocational education, and among public and private agencies and institutions.

(ii) Improved coordination of services among health and social services agencies and within communities regarding services for children with disabilities and their families.

(iii) Increased systematic parental involvement in the education of their children with disabilities.

(iv) Inclusion of children with disabilities in all aspects of education and society.

(v) Training that is designed to enable special education teachers to teach, as appropriate, to world class standards (such as those developed by the National Council on Teachers of Mathematics) as those standards are developed.

(18) *Interpreter training.* This priority supports projects to train educational interpreters. Support is limited to projects that demonstrate recruitment strategies, specifically adapted curricula, and incentives designed to increase the probability that program graduates will function productively as interpreters in instructional settings. These projects must be concentrated on student support, rather than on basic institutional support.

(19) *Attention deficit disorders.* This priority supports projects to devise new inservice and preservice training strategies for special education and regular classroom teachers and administrators that would address the needs of children with attention deficit disorders (ADD). The purpose is not to develop distinct categorical programs for training personnel to teach children with ADD, but rather to enhance the skills of general and special education teachers and administrators to better serve this population of students. These strategies must be infused into personnel preparation programs of national organizations serving regular and special education personnel.

(b) Under paragraph (a) of this section, the Secretary may identify an amount of funds to be set aside for projects to address the needs of children with particular disabilities and in particular States or geographic areas.

(Authority: 20 U.S.C. 1431(a)–(c))

Subpart C—How Does the Secretary Make an Award?

§ 318.20 What are the requirements for applicants?

(a) An applicant under § 318.11(a) (1) or (2) shall demonstrate that the proposed project is consistent with the needs for personnel, including personnel to provide special education services to children with limited English proficiency, identified by the comprehensive systems of personnel development of the State or States typically employing program graduates.

(b) A project under § 318.10(a) (1) or (2) must include—

(1) Training techniques and procedures designed to foster collaboration among special education teachers, regular teachers, administrators, related service personnel, early intervention personnel, and parents;

(2) Training techniques, procedures, and practica designed to demonstrate the delivery of services in an array of regular, special education, and community settings; and

(3) Interdisciplinary preparation of trainees.

(c) An applicant shall demonstrate how it will address, in whole or in part, the needs of infants, toddlers, children, and youth with disabilities from minority backgrounds.

(d) An applicant under § 318.10(a) (1) or (2) shall present a detailed description of strategies for recruitment and training of members of minority groups and persons with disabilities.

(e) For technical assistance to professional development partnership projects under § 318.10(a)(5), an applicant must demonstrate capacity and expertise in the education, training, and retention of workers to serve children and youth with disabilities through the use of consortia or partnerships established for the purpose of retaining the existing workforce and providing opportunities for career enhancements.

(f) An applicant under § 318.10(a) (1) or (2) shall demonstrate that it meets State and professionally recognized standards for the training of personnel, as evidenced by appropriate State and professional accreditation, unless the award is for the purpose of assisting the applicant to meet those standards.

(Authority: 20 U.S.C. 1410; 20 U.S.C. 1431(a)–(c))

§ 318.21 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in §§ 318.22, 318.23, and 318.24.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1431(a)–(c))

§ 318.22 What selection criteria does the Secretary use to evaluate applications for preservice training, leadership training, and professional development programs?

The Secretary uses the following criteria to evaluate all applications for preservice training under § 318.10(a)(1), leadership training under § 318.10(a)(2), and professional development projects under § 318.10(a)(4).

(a) *Impact on critical present and projected need.* (30 points) The Secretary reviews each application to determine the extent to which the training will have a significant impact on critical present and projected State, regional, or national needs in the quality or the quantity of personnel serving infants, toddlers, children, and youth with disabilities. The Secretary considers—

(1) The significance of the personnel needs to be addressed to the provision of special education, related services, and early intervention. Significance of need identified by the applicant may be shown by—

(i) Evidence of critical shortages of personnel to serve infants, toddlers, children, and youth with disabilities, including those with limited English proficiency, in targeted specialty or geographic areas, as demonstrated by data from the State comprehensive systems of personnel development; reports from the Clearinghouse on Careers and Employment of Personnel serving children and youth with disabilities; or other indicators of need that the applicant demonstrates are relevant, reliable, and accurate; or

(ii) Evidence showing significant need for improvement in the quality of personnel providing special education, related services, and early intervention services, as shown by comparisons of actual and needed skills of personnel in targeted specialty or geographic areas; and

(2) The impact the proposed project will have on the targeted need. Evidence that the project results will have an impact on the targeted needs may include—

(i) The projected number of graduates from the project each year who will have necessary competencies and certification to affect the need;

(ii) For ongoing programs, the extent to which the applicant's projections are supported by the number of previous program graduates that have entered the field for which they received training, and the professional contributions of those graduates; and

(iii) For new programs, the extent to which program features address the projected needs, the applicant's plan for helping graduates locate appropriate employment in the area of need, and the program features that ensure that graduates will have competencies needed to address identified qualitative needs.

(b) *Capacity of the applicant.* (25 points) The Secretary reviews each application to determine the capacity of the applicant to train qualified personnel, including consideration of—

(1) The qualifications and accomplishments of the project director and other key personnel directly involved in the proposed training program, including prior training, publications, and other professional contributions;

(2) The amount of time each key person plans to commit to the project;

(3) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability;

(4) The adequacy of resources, facilities, supplies, and equipment that the applicant plans to commit to the project;

(5) The quality of the practicum training settings, including evidence that they are sufficiently available; apply state-of-the-art services and model teaching practices, materials, and technology; provide adequate supervision to trainees; offer opportunities for trainees to teach; and foster interaction between students with disabilities and their nondisabled peers;

(6) The capacity of the applicant to recruit well-qualified students;

(7) The experience and capacity of the applicant to assist local public schools and early intervention service agencies in providing training to these personnel, including the development of model practicum sites; and

(8) The extent to which the applicant cooperates with the State educational agency, the State-designated lead agency under Part H of the Act, other institutions of higher education, and other appropriate public and private agencies in the region served by the applicant in identifying personnel needs and plans to address those needs.

(c) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) High quality in the design of the project;

(2) The extent to which the plan of management ensures effective, proper, and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The way the applicant plans to use its resources and personnel to achieve each objective;

(5) The extent to which the application includes a delineation of competencies that program graduates will acquire and how the competencies will be evaluated;

(6) The extent to which substantive content and organization of the program—

(i) Are appropriate for the students' attainment of professional knowledge and competencies deemed necessary for the provision of quality educational and early intervention services for infants, toddlers, children, and youth with disabilities; and

(ii) Demonstrate an awareness of methods, procedures, techniques, technology, and instructional media or materials that are relevant to the preparation of personnel who serve infants, toddlers, children, and youth with disabilities; and

(7) The extent to which program philosophy, objectives, and activities implement current research and demonstration results in meeting the educational or early intervention needs of infants, toddlers, children, and youth with disabilities.

(d) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project;

(2) To the extent possible, are objective and produce data that are quantifiable, including, but not limited to, the number of trainees graduated and hired; and

(3) Provide evidence that evaluation data and student follow-up data are systematically collected and used to modify and improve the program. (See 34 CFR 75.590, Evaluation by the grantee.)

(e) *Budget and cost-effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget for the project is adequate to support the project activities;

(2) Costs are reasonable in relation to the objectives of the project; and

(3) The applicant presents appropriate plans for the institutionalization of federally supported activities into basic program operations.

(Authority: 20 U.S.C. 1431(a)–(c))

§ 318.23 What selection criteria does the Secretary use to evaluate applications for special projects?

The Secretary uses the following criteria to evaluate special projects under § 318.10(a)(3):

(a) *Anticipated project results.* (20 points) The Secretary reviews each application to determine the extent to which the project will meet present and projected needs under Parts B and H of the Act in special education, related services, or early intervention services personnel development.

(b) *Program content.* (20 points) The Secretary reviews each application to determine—

(1) The project's potential for national significance, its potential for replication and effectiveness, and the quality of its plan for dissemination of the results of the project;

(2) The extent to which substantive content and organization of the project—

(i) Are appropriate for the attainment of knowledge that is necessary for the provision of quality educational and early intervention services to infants,

toddlers, children, and youth with disabilities; and

(ii) Demonstrate an awareness of relevant methods, procedures, techniques, technology, and instructional media or materials that can be used in the development of a model to prepare personnel to serve infants, toddlers, children, and youth with disabilities; and

(3) The extent to which program philosophy, objectives, and activities are related to the educational or early intervention needs of infants, toddlers, children, and youth with disabilities.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) High quality in the design of the project;

(2) An effective plan of management that ensures proper and efficient administration of the project;

(3) How the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project; and

(2) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

(e) *Quality of key personnel.* (15 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The time that each of the key personnel plans to commit to the project;

(4) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability; and

(5) Evidence of the key personnel's past experience and training in fields related to the objectives of the project.

(f) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(g) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1431(a)-(c))

§ 318.24 What selection criteria does the Secretary use to evaluate applications for technical assistance activities?

The Secretary uses the following criteria to evaluate applications for technical assistance activities under § 318.10(a)(5):

(a) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the project design;

(2) The effectiveness of the management plan in ensuring proper and efficient administration of the project;

(3) How the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(b) *Program content.* (20 points) The Secretary reviews each application to determine—

(1) The project's potential for national significance, its potential for effectiveness, and the quality of its plan for dissemination of the results of the project; and

(2) The extent to which substantive content and organization of the program—

(i) Are appropriate for the attainment of knowledge that is necessary for the provision of quality educational and early intervention services to infants, toddlers, children, and youth with disabilities; and

(ii) Demonstrate an awareness of relevant methods, procedures, techniques, technology, and instructional media or materials that can be used in the development of a model to prepare personnel to serve infants, toddlers, children, and youth with disabilities; and

(3) The extent to which program philosophy, objectives, and activities are related to the educational or early intervention needs of infants, toddlers, children, and youth with disabilities.

(c) *Applicant experience and ability.* (15 points) The Secretary looks for information that shows the applicant's—

(1) Experience and training in fields related to the objectives of the project;

(2) National experience relevant to performance of the functions supported by this program;

(3) Ability to conduct the proposed project;

(4) Ability to communicate with intended consumers of information;

(5) Ability to maintain necessary communication and coordination with other relevant projects, agencies, and organizations; and

(6) Capacity and expertise in the education, training, and retention of workers to serve children and youth with disabilities through the use of consortia or partnerships established for the purpose of retaining the existing workforce and providing opportunities for career enhancements.

(d) *Quality of key personnel.* (10 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The time that each of the key personnel plans to commit to the project; and

(4) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability.

(e) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project; and

(2) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

(f) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(g) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1431(a)-(c))

§ 318.25 What additional factors does the Secretary consider?

To the extent feasible, the Secretary ensures that projects for professional development partnerships under

§ 318.10(a)(4) are geographically dispersed throughout the Nation in urban and rural areas.

(Authority: 20 U.S.C. 1431(a)–(c))

Subpart D—What Conditions Must a Grantee Meet?

§ 318.30 What are the priorities for award of student fellowships and traineeships?

A grantee shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained.

(Authority: 20 U.S.C. 1431(a)–(c))

§ 311.31 Is student financial assistance authorized?

The sum of the assistance provided to a student under this part and any other assistance provided the student may not exceed the student's cost of attendance as follows:

(a) "Cost of attendance" is defined as—

(1) Tuition and fees normally assessed a student carrying the same academic workload (as determined by the institution) including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) An allowance (as determined by the institution) for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis;

(3) An allowance (as determined by the institution) for room and board costs incurred by the student that—

(i) Is not less than $1,500 for students without dependents residing at home with parents;

(ii) Is the standard amount that the institution normally assesses its residents for room and board for students without dependents residing in institutionally owned or operated housing; and

(iii) Is based for all other students on the expenses reasonably incurred for room and board outside the institution, except that the amount may not be less than $2,500;

(4) For less than half-time students (as determined by the institution), tuition and fees and an allowance for books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (a)(7) of this section);

(5) For a student engaged in a program of study by correspondence, only tuition and fees; and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(6) For a student enrolled in an academic program that normally includes a formal program of study abroad, reasonable costs associated with the study as determined by the institution;

(7) For a student with one or more dependents, an allowance, as determined by the institution, based on the expenses reasonably incurred for dependent care based on the number and age of the dependents; and

(8) For a student with a disability, an allowance, as determined by the institution, for those expenses related to his or her disability, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.

(b) For a student receiving all or part of his or her instruction by means of telecommunications technology, no distinction may be made with respect to the mode of instruction in determining costs, but this paragraph may not be construed to permit including the cost of rental or purchase of equipment.

(Authority: 20 U.S.C. 1087*ll*)

§ 318.32 What are the student financial assistance criteria?

Direct financial assistance may only be paid to a student in a preservice program, and only if the student—

(a) Is qualified for admission to the program of study;

(b) Maintains satisfactory progress in a course of study as defined in 34 CFR 668.7; and

(c)(1) Is a citizen or national of the United States;

(2) Provides evidence from the U.S. Immigration and Naturalization Service that he or she—

(i) Is a permanent resident of the United States; or

(ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(3) Has a permanent or lasting, as distinguished from temporary, principal, actual dwelling place in fact, without regard to intent, in Palau or the Commonwealth of the Northern Mariana Islands.

(Authority: 20 U.S.C. 1091)

§ 318.33 May the grantee use funds if a financially assisted student withdraws or is dismissed?

Financial assistance awarded to a student that is unexpended because the student withdraws or is dismissed from the training program may be used for financial assistance to other eligible students during the grant period.

(Authority: 20 U.S.C. 1087*ll*)

§ 318.34 What are the reporting requirements under this program?

Recipients shall, if appropriate, prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of those procedures, findings, and information. The Secretary requires their delivery, as appropriate, to the Regional and Federal Resource Centers, the Clearinghouses, and the Technical Assistance to Parents Program (TAPP) assisted under Parts C and D of the Act, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental Health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and other networks the Secretary may determine to be appropriate.

(Authority: 20 U.S.C. 1409(g))

PART 319—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES—GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

Subpart A—General

Sec.

Subpart B—How Does One Apply for an Award?

Subpart C—How Does the Secretary Make an Award?

Authority: 20 U.S.C. 1432, unless otherwise noted.

Subpart A—General

§ 319.1 What is the Training Personnel for the Education of Individuals with Disabilities—Grants to State Educational Agencies and Institutions of Higher Education Program?

This program assists States in establishing and maintaining preservice and inservice programs to prepare special and regular education, related services, and early intervention personnel and their supervisors to meet the needs of infants, toddlers, children, and youth with disabilities. These programs must be consistent with the personnel needs identified in the State's comprehensive systems of personnel development under sections 613 and 676(b)(8) of the Individuals with Disabilities Education Act (IDEA). The program also assists States in developing and maintaining their comprehensive systems of personnel development and conducting recruitment and retention activities.

(Authority: 20 U.S.C. 1432)

§ 319.2 Who is eligible for an award?

(a) Each State educational agency (SEA) is eligible to receive an award under the basic State award program described in § 319.3(a). If an SEA does not apply for an award, institutions of higher education (IHEs) within the State may apply for the award for that State. If an SEA chooses not to apply for the basic State award, the SEA shall notify all IHEs within the State at least 30 days prior to the Department's closing date for applications.

(b) Only State educational agencies are eligible for a competitive award described in § 319.3(b).

(c) Profit and nonprofit organizations and agencies are eligible for technical assistance awards described in § 319.3(c).

(Authority: 20 U.S.C. 1432)

§ 319.3 What activities may the Secretary fund?

The Secretary funds basic State awards and may fund competitive grant awards and provide technical assistance to States in developing and maintaining their comprehensive systems of personnel development.

(a) *Basic State awards.* Under this program, the Secretary makes an award to each State for the purposes described in § 319.1.

(b) *Competitive award program.* Under this program, the Secretary may make competitive awards for the purposes described in § 319.1. These awards must address particularly high priority issues with potential for broad generalizability.

(c) *Technical assistance.* The Secretary may provide technical assistance to State educational agencies on matters pertaining to the effective implementation of section 613(a)(3) of the IDEA.

(1) This activity includes, but is not limited to, the following:

(i) Monitoring personnel needs in the State.

(ii) Analyzing strategies to determine needs for professional preparation to meet the needs of children with disabilities.

(iii) Identifying, designing, adapting, testing, and disseminating new professional preparation strategies.

(iv) Providing technical assistance in the personnel development, recruitment, and retention areas.

(2) Operational activities must include, but are not limited to, the following:

(i) Determining national needs and identifying unserved regions and populations.

(ii) Identifying the specific technical assistance needs of individual States related to professional preparation.

(iii) Conducting annual meetings at national and regional levels.

(iv) Dissemination of information through media, newsletters, computers, and written documentation.

(v) Cooperative activities with other personnel development projects and organizations on common goals.

(vi) Evaluation, including impact determination, and evaluation assistance to other personnel development projects.

(Authority: 20 U.S.C. 1432)

§ 319.4 What regulations apply to this program?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in the following parts of title 34 of the Code of Federal Regulations:

(1) Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) Part 75 (Direct Grant Programs).

(3) Part 77 (Definitions that Apply to Department Regulations).

(4) Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) Part 81 (General Education Provisions Act—Enforcement).

(7) Part 82 (New Restrictions on Lobbying).

(8) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) Part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 319.

(Authority: 20 U.S.C. 1432; 20 U.S.C. 3474(a))

§ 319.5 What definitions apply to this program?

The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
EDGAR
Fiscal year
Grant period
Preschool
Project
Public
Secretary
State
State educational agency

(Authority: 20 U.S.C. 1432)

Subpart B—How Does One Apply for an Award?

§ 319.10 What are the application requirements under this program?

An IHE that applies for an award under § 319.3(a) shall demonstrate that it meets State and professionally recognized standards for the training of special education and related services personnel, as evidenced by appropriate State and professional accreditation, unless—as indicated in a published priority of the Secretary—the award is

for the purpose of assisting the applicant to meet those standards.

(Authority: 20 U.S.C. 1432)

Subpart C—How Does the Secretary Make an Award?

§ 319.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in §§ 319.23 and 319.24.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1432)

§ 319.21 How does the Secretary determine the amount of a basic State award?

The Secretary determines the amount of an award under § 319.3(a) as follows:

(a) The Secretary distributes no less than 80 percent of the funds available for these awards as follows:

(1) Each State receives a base amount to be determined by the Secretary, but not less than $85,000.

(2) From the funds remaining, the Secretary provides an additional amount to each State based on the State's proportion of the national child count provided under Part B of the IDEA and Subpart 2 of Part D of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, as amended.

(b) After determining a State's award under paragraph (a) of this section, the Secretary determines annually the additional amount of funds to be awarded for the quality of the application based on the criteria set forth in § 319.23.

(Authority: 20 U.S.C. 1432)

§ 319.22 How does the Secretary determine the amount available for the competitive award program?

In any fiscal year, the Secretary may not expend for the competitive program under § 319.3(b) an amount more than 10 percent of the amount expended under section 632 of the IDEA in the preceding fiscal year.

(Authority: 20 U.S.C. 1432)

§ 319.23 What selection criteria does the Secretary use in the basic State award and competitive award programs?

The Secretary uses the following criteria to evaluate an application for a basic State award (SEA or IHE applicant) and for a competitive award.

(a) *Extent of need for the project.* (30 points) The Secretary reviews each application to determine—

(1) The extent to which the project identifies and selects priority needs from the range of personnel needs identified in the State comprehensive systems of personnel development;

(2) The extent to which the project addresses the personnel needs selected by the applicant under paragraph (a)(1) of this section; and

(3) If appropriate, how the project relates to actual and projected personnel needs for certified teachers in the State as identified by the State educational agency in its annual data report required under section 618 of the IDEA.

(b) *Program content.* (20 points) The Secretary reviews each application to determine the extent to which—

(1)(i) Competencies are identified that will be acquired by each trainee, (ii) there is a description of how the competencies will be evaluated;

(2) Substantive content of the training to be provided is appropriate for the attainment of professional knowledge and competencies that are necessary for the provision of quality educational or early intervention services to infants, toddlers, children, and youth with disabilities;

(3) Benefits to be gained by the number of trainees expected to be graduated or otherwise to complete training and employed over the next five years are described;

(4) Appropriate methods, procedures, techniques, and instructional media or materials will be used in the preparation of trainees who serve infants, toddlers, children, and youth with disabilities;

(5) If relevant, appropriate practicum facilities are accessible to the applicant agency and trainees and will be used for such activities as observation, participation, practice teaching, laboratory or clinical experience, internships, and other supervised experiences of adequate scope and length;

(6) If relevant, practicum facilities for model programs will provide state-of-the-art educational services, including use of current and innovative curriculum materials, instructional procedures, and equipment; and

(7) Program philosophy, program objectives, and activities to be implemented to attain program objectives are related to the educational or early intervention needs of infants, toddlers, children, and youth with disabilities.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the project design;

(2) The effectiveness of the management plan in ensuring proper and efficient administration of the project;

(3) How the objectives of the project relate to the purpose of the program;

(4) The way the applicant plans to use its resources and personnel to achieve each objective; and

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disability.

(d) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project; and

(2) To the extent possible, are objective and produce data that are quantifiable, including, but not limited to, the number of trainees graduated and hired, and the number of trainees who complete short-term in-service or pre-service training programs. (See 34 CFR 75.590, Evaluation by the grantee).

(e) *Quality of key personnel.* (10 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use on the project, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The time that each of the key personnel plans to commit to the project;

(4) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability; and

(5) Experience and training in fields related to the objectives of the project.

(f) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(g) *Budget and cost-effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1432)

§ 319.24 What selection criteria does the Secretary use to evaluate applications for technical assistance activities?

The Secretary uses the following criteria to evaluate applications for technical assistance activities:

(a) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the project design;

(2) The effectiveness of the management plan in ensuring proper and efficient administration of the project;

(3) How the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(b) *Program content.* (20 points) The Secretary reviews each application to determine—

(1) The project's potential for national significance, its potential effectiveness, and the quality of its plan for dissemination of the results of the project;

(2) The extent to which substantive content and organization of the program—

(i) Are appropriate for the attainment of knowledge that is necessary for the provision of quality educational and early intervention services to infants, toddlers, children, and youth with disabilities; and

(ii) Demonstrate an awareness of relevant methods, procedures, techniques, technology, and instructional media or materials that can be used in the development of a model to prepare personnel to serve infants, toddlers, children, and youth with disabilities; and

(3) The extent to which program philosophy, objectives, and activities are related to the educational or early intervention needs of infants, toddlers, children, and youth with disabilities.

(c) *Applicant experience and ability.* (15 points) The Secretary looks for information that shows the applicant's—

(1) Experience and training in fields related to the objectives of the project;

(2) National experience relevant to performance of the functions supported by this program;

(3) Ability to conduct the proposed project;

(4) Ability to communicate with intended consumers of information; and

(5) Ability to maintain necessary communication and coordination with other relevant projects, agencies, and organizations.

(d) *Quality of key personnel.* (10 points) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use in the project, including—

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel to be used in the project;

(3) The time that each of the key personnel plans to commit to the project; and

(4) How the applicant, as a part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability.

(e) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate for the project; and

(2) To the extent possible, are objective and produce data that are quantifiable. (See 34 CFR 75.590, Evaluation by the grantee.)

(f) *Adequacy of resources.* (5 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(g) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1432)

Subpart D—What Conditions Must Be Met After an Award?

§ 319.30 Is student financial assistance authorized?

A grantee may use grant funds under § 319.2 (a) and (b) to provide traineeships or stipends. The sum of the assistance provided to a student through this part and any other assistance provided the student may not exceed the student's cost of attendance as follows:

(a) *Cost of attendance* is defined as—

(1) Tuition and fees normally assessed a student carrying the same academic workload (as determined by the institution) including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) An allowance (as determined by the institution) for books, supplies, transportation, miscellaneous and personal expenses for a student attending the institution on at least a half-time basis;

(3) An allowance (as determined by the institution) for room and board costs incurred by the student that—

(i) Is not less than $1,500 for students without dependents residing at home with parents;

(ii) Is the standard amount that the institution normally assesses its residents for room and board for students without dependents residing in institutionally owned or operated housing; and

(iii) Is based for all other students on the expenses reasonably incurred for room and board outside the institution, except that the amount may not be less than $2,500;

(4) For less than half-time students (as determined by the institution), tuition and fees and an allowance for books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (a)(7) of this section);

(5) For a student engaged in a program of study by correspondence, only tuition and fees; and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(6) For a student enrolled in an academic program that normally includes a formal program of study abroad, reasonable costs associated with the study as determined by the institution;

(7) For a student with one or more dependents, an allowance, as determined by the institution, based on the expenses reasonably incurred for dependent care based on the number and age of the dependents; and

(8) For a student with a disability, an allowance, as determined by the institution, for those expenses related to his or her disability, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.

(b) For a student receiving all or part of his or her instruction by means of telecommunication technology, no distinction may be made with respect to the mode of instruction in determining costs. This paragraph may not be construed to permit including the cost of rental or purchase of equipment.

(Authority: 20 U.S.C. 1087*ll*)

§ 319.31 What are the student financial assistance criteria?

Direct financial assistance under § 319.2 (a) and (b) may only be paid to students in preservice programs and only if the student—

(a) Is qualified for admission to the program of study;

(b) Maintains satisfactory progress in a course of study as provided in 34 CFR 668.16(e); and

(c)(1) Is a citizen or national of the United States;

(2) Provides evidence from the U.S. Immigration and Naturalization Service that he or she—

(i) Is a permanent resident of the United States; or

(ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(3) Has a permanent or lasting, as distinguished from temporary, principal, actual dwelling place in fact, without regard to intent, in Palau or the Commonwealth of the Northern Mariana Islands.

(Authority: 20 U.S.C. 1091)

§ 319.32 May the grantee use funds if a financially assisted student withdraws or is dismissed?

Financial assistance awarded to a student that is unexpended because the student withdraws or is dismissed from the training program may be used for financial assistance to other eligible students during the grant period.

(Authority: 20 U.S.C. 1087*ll*)

§ 319.33 What are the reporting requirements under this program?

Recipients shall, if appropriate, prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of those procedures, findings, and information. The Secretary requires their delivery, as appropriate, to the Regional and Federal Resource Centers, the Clearinghouses, and the Technical Assistance to Parents Program (TAPP) assisted under Parts C and D of the Act, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental Health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and other networks the Secretary may determine to be appropriate.

(Authority: 20 U.S.C. 1409(g))

[FR Doc. 92–18485 Filed 8–4–92; 8:45 am]

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federal register

Wednesday
August 5, 1992

Part IV

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 92

Home Investment Partnerships Program; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 92

[Docket No. R-92-1608; FR-3242-P-01]

RIN 2501-AB42

Home Investment Partnerships Program

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule is intended to implement recent statutory amendments concerning insular areas participating in the HOME Investment Partnerships Program. The rule would provide the formula for determining allocations to insular areas (Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa). It would also provide other requirements for the insular area component of the Program.

DATES: Comments must be submitted on or before September 4, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2470, TDD (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Information Collections

The information collection requirements contained in this rule, for the most part, have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been approved under OMB control number 2501-0013. The Department has revised or added information collection requirements in §§ 92.61 and 92.66, and has submitted a request for OMB approval of these requirements.

The annual public reporting burden of these requirements, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, is stated in the chart below. Send comments regarding burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to the Department of Housing and Urban Development Rules Docket Clerk, at the address stated above, and to the Office of Information and Regulatory Affairs, room 3001, Office of Management and Budget, Washington, DC 20503, Attention: Jennifer Main, Desk Officer for HUD. The Department may amend the information collection requirements set out in this rule to reflect public comments or OMB comments received concerning the information collections.

The following are the Paperwork requirements that apply to the new provisions contained in the HOME Insular Area Program at subpart B of 24 CFR part 92.

ANNUAL REPORTING AND RECORDKEEPING BURDEN

Reg section	Paperwork requirements	Record-keeping hours	Reporting hours	Number of jurisdiction	Total hours
92.61	Program description and housing strategy	0	10	4	40
92.66	Reallocation	0	3	4	12

Total Participant Costs:

Recordkeeping Hours 0×$15=$ 0
Reporting hours 52×$15=$780
Total: $780

II. Background

Sections 1 and 2 of Public Law 102-230, 105 Stat. 1720, approved December 12, 1991, amended the National Affordable Housing Act (NAHA) to provide for reserving a portion of HOME funds for grants to insular areas. Section 104 of NAHA, as amended, defines "insular area" to mean Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.

Section 217(a)(3) of NAHA, as added by section 1 of Public Law 102-230, contains the following provision concerning the reservation of HOME funds for insular areas:

(3) Insular areas.—

(A) In general.—For each fiscal year, of any amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to the insular areas an amount that reflects—

(i) their share of the total population of eligible jurisdictions; and

(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B). [The statutory factors for the basic formula allocation to States and to units of general local government that are metropolitan areas, urban counties, and consortia.]

(B) Specific Criteria.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

(C) Transitional provisions.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 216(6)(A). [That section provides for the reallocation of funds when a State does not become a participating jurisdiction.]

Section 217 of NAHA was also amended by Public Law 102-229, 105 Stat. 1701, 1709, approved December 12, 1991. This amendment also added a new section 217(a)(3). It provided for a reservation of HOME funds for insular areas in each fiscal year equal to the greater of $750,000 or 0.5 percent of the amounts appropriated for the HOME Program. This proposed rule would implement only Public Law 102-230 because it is the later enactment and implicitly repeals the earlier inconsistent provision.

The Department has decided to base the formula for determining the amount to be allocated for the insular areas both on the section 217(a)(3)(A)(i) insular areas share of total United States population and on the insular areas share of occupied rental units in the United States. The amount of HOME funds allocated for the insular areas is equal to the average of these two factors

multiplied by the total HOME funds available for allocation after reserving HOME funds for Indian tribes and for education and organization support and coordinated federal support activities. In this average, share of population and share of occupied rental units are equally weighted.

The Department has used share of occupied rental housing as a measure of need based on rental occupancy data. Four of the six formula allocation factors used in determining relative need (see 24 CFR 92.50) are measures of subsets of occupied rental housing. The Department's experience indicates that there is a reasonably close correspondence between the relative need determined by using these factors, and the relative need determined by using share of occupied rental household.

The formula for determining the total insular areas allocation would be added to § 92.50. Section 92.60 sets forth the basis for determining the allocation amount for each insular area. The initial allocation is based on the insular area's population and occupied rental units. The HUD Field Office may reduce this amount based upon the insular area's performance and other criteria. No allocation may be made if the insular area has an outstanding audit finding or monetary obligation to HUD unless the HUD Field Office Manager finds that the insular area has made a good faith effort to clear the finding or has arranged for repayment to HUD. The allocation amount to an insular area may be increased (if funds are available due to decreases in allocations to other insular areas that have had funds reduced or recaptured) based on its HOME performance. While the Department may include the amounts of the insular area allocations in the formula allocation notice that is published in the Federal Register in accordance with § 92.52, insular areas will receive written notice of their allocation from HUD (see § 92.60).

The deadline for an insular area to submit a program description would be 60 days from when HUD transmits the written allocation notice. The program description has been revised to reflect the fact that insular areas are not participating jurisdictions and are not subject to certain statutory requirements directed at participating jurisdictions, including the matching contributions requirement and the prohibition against using HOME funds for administrative costs, and to require more specific information concerning projects and activities.

Section 92.64 states the applicability of the general HOME Program requirements to insular areas. Section 92.65 provides simpler procedural requirements when sanctions are applied. These proposed requirements are comparable to those that apply to the insular area component of the Community Development Block Grant Program. Finally, under proposed § 92.66, HOME funds that are reduced or recaptured from an insular area and are not used to increase the allocation amount for one or more of the remaining insular areas as provided in § 92.60 would be reallocated to the states as if they had been initially allocated to states.

The comment period for this proposed rule is limited to 30 days rather than the 60 day comment period usually afforded for public comment. The Department has determined, in accordance with 24 CFR 10.1, that it would be in the public interest to omit public comment on this rule because a formula allocation for insular areas must be in place by the time of the 1993 Fiscal Year (FY) appropriation for the HOME Program, since the amount allocated to insular areas would affect the total amount remaining available for other participating jurisdictions. However, it is not necessary to omit a comment period altogether in order to promulgate a final rule in time for FY 1993. To give interested parties an opportunity to comment before putting a final rule into effect, a comment period of 30 days is being afforded, rather than entirely omitting the comment period. In addition, those parties most affected by this rule, the four insular areas as defined in the rule, will be given individual notice of this rulemaking at the time of its transmittal for Federal Register publication to assure that they have adequate and timely notice and opportunity to comment.

III. Findings and Certifications

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Impact on the Economy

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Impact on Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because only the four statutorily defined "insular areas" are affected by this rule.

Regulatory Agenda

This rule was not listed in the Department's Semiannual Agenda of Regulations published on April 27, 1992 (57 FR 16804) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Federalism Impact

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that this proposed rule does not have federalism implications concerning the division of local, state, and federal responsibilities. The rule affects the four Federal territories included within the term "insular areas."

Impact on the Family

The General Counsel, as the designated official under Executive Order 12606, The Family, has determined that this rule would not have significant impact on family formation, maintenance, and general well-being. Assistance provided under the rule can be expected to support family values, by helping families achieve security and independence; by enabling them to live in decent, safe, and sanitary housing; and by giving them the means to live independently in mainstream American society. The rule would not, however, affect the institution of the family, which is requisite to coverage by the Order. Even if the rule had the necessary family impact, it would not be subject to further review under the Order, since the provision of assistance under the rule is required by statute, and is not subject to agency discretion.

List of Subjects in 24 CFR Part 92

Grant programs—housing and community development, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, the Department proposes to amend part 92 of title 24 of the Code of Federal Regulations as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. In part 92, the authority citation would continue to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

2. In § 92.2, the newly defined term *insular areas* would be added and the definition of *unit of general local government* would be revised, to read as follows:

§ 92.2 Definitions.

* * * * *

Insular areas means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa.

* * * * *

Unit of general local government means a city, town, township, county, parish, village, or other general purpose political subdivision of a state; an insular area or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by HUD in accordance with § 92.101; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this part. When a county is an urban county, the urban county is the unit of general local government for purposes of the HOME Investment Partnerships Program.

* * * * *

3. The heading for subpart B would be revised and an undesignated heading would be added immediately after the heading for subpart B, to read as follows:

Subpart B—Allocation Formula and Insular Areas Program Allocation Formula

4. In § 92.50, paragraph (b) would be revised to read as follows:

§ 92.50 Formula allocation.

* * * * *

(b) *Amounts available for allocation; state and local share.* The amount of funds that are available for allocation by the formula under this section is equal to the balance of funds remaining after reserving:

(1) For grants to Indian tribes, one percent (or such other percentage or amount, as authorized by Congress) of the total funds appropriated;

(2) Up to such amounts as may be authorized by law for housing education and organization support and for coordinated federal support activities; and

(3) For allocations to insular areas, (after reserving the amounts described in paragraphs (b)(1) and (b)(2) of this section) an amount multiplied by a factor that is one half the sum of the insular areas' population divided by total United States population, including the insular areas, and the insular areas' occupied rental units divided by total United States occupied rental units, including the insular areas.

* * * * *

5. At the end of subpart B, an undesignated heading and new §§ 92.60 through 92.66 would be added, to read as follows:

Insular Areas Program

§ 92.60 Allocation amounts for insular areas.

(a) *Initial allocation amount for each insular area.* The initial allocation amount for each insular area is determined based upon the insular area's population and occupied rental units compared to all insular areas.

(b) *Threshold requirements.* The responsible HUD Field Office shall review each insular area's progress on outstanding allocations made under this section, based on the insular area's performance report, the timeliness of close-outs, and compliance with fund management requirements and pertinent regulations, taking into consideration the size of the allocation and the degree and complexity of the program. If HUD determines from this review that the insular area does not have the capacity to administer effectively a new allocation, or a portion of a new allocation, in addition to allocations currently under administration, HUD may reduce the insular area's initial allocation amount.

(c) *Previous audit findings and outstanding monetary obligations.* HUD shall not make an allocation to an insular area that has either an outstanding audit finding for any HUD program, or an outstanding monetary obligation to HUD that is in arrears, or for which a repayment schedule has not been established and agreed to. This restriction does not apply if the Field Office manager finds that the insular area has made a good faith effort to clear the audit and, when there is an outstanding monetary obligation to HUD, the insular area has made a satisfactory arrangement for repayment of the funds due HUD and payments are current.

(d) *Increases to the initial allocation amount.* If funds reserved for the insular areas are available because HUD has decreased the amount for one or more insular area in accordance with paragraphs (b) or (c) of this section, or for any other reason, HUD may increase the allocation amount for one or more of the remaining insular areas based upon the insular area's performance in committing HOME funds within the 24 month deadline, producing housing units described in its program description, and meeting HOME program requirements. Funds that become available but which are not used to increase the allocation amount for one or more of the remaining insular areas will be reallocated to the states as provided in accordance with the requirements in subpart J for reallocating funds initially allocated to a state.

(e) *Notice of allocation amounts.* HUD will notify each insular area, in writing, as to the amount of its HOME allocation that HUD has determined for the insular area in accordance with this section.

§ 92.61 Program description and housing strategy.

(a) *Submission requirement.* Not later than 60 days after HUD notifies the insular area of the amount of its allocation, the insular area must submit a program description to HUD containing the information described in paragraph (b) of this section.

(b) *Content of program description.* The program description must provide the following information:

(1) An executed Standard Form 424;

(2) The estimated use of HOME funds (consistent with needs identified in its approved housing strategy) and a description of projects and eligible activities, including number of units to be assisted, estimated costs, and tenure type (rental or owner occupied) and, for tenant assistance, households assisted;

(3) A timetable for the implementation of the projects or eligible activities;

(4) If the insular area intends to use HOME funds for first-time homebuyers, the guidelines for resale, as required in § 92.254(a)(4);

(5) If the insular area intends to use HOME funds for tenant-based rental assistance, a description of how the program will be administered consistent with the minimum guidelines described in § 92.211;

(6) If an insular area intends to use other forms of investment not described

in § 92.205(b), a description of the other forms of investment;

(7) A statement of the policy and procedures to be followed by the insular area to meet the requirements for affirmative marketing, and establishing and overseeing a minority and women business outreach program under §§ 92.350 and 92.351, respectively.

(c) The following certifications must accompany the program description:

(1) A certification that, before committing funds to a project, the insular area will evaluate the project in accordance with guidelines that it adopts for this purpose and will not invest any more HOME funds in combination with other federal assistance that is necessary to provide affordable housing;

(2) If the insular area intends to provide tenant-based assistance, the certification required by § 92.211;

(3) A certification that the submission of the program description is authorized under applicable law and the insular area possesses the legal authority to carry out the HOME Investment Partnerships Program, in accordance with the HOME regulations;

(4) A certification that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR part 24 and the requirements of § 92.353;

(5) A certification that the insular area will use HOME funds pursuant to the insular area's approved housing strategy and in compliance with all requirements of this part;

(6) The certification with regard to the drug-free workplace required by 24 CFR part 24, subpart F; and

(7) The certification required with regard to lobbying required by 24 CFR part 87, together with disclosure forms, if required by part 87.

(8) A certification that the insular area agrees to assist HUD to comply with 24 CFR part 50 and shall:

(i) Supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by part 50;

(ii) Carry out mitigating measures required by HUD or select alternate eligible property; and

(iii) Not acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds to such program activities with respect to any eligible property, until HUD approval is received.

§ 92.62 Review of program description and certifications.

(a) *Review of program description.* The responsible HUD Field Office will review an insular area's program description and will approve the description unless it is not consistent with the insular area's approved housing strategy, or if the insular area has failed to submit information sufficient to allow HUD to make the necessary determinations required by § 92.61 (b)(4), (b)(6), and (b)(7), if applicable, or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs. If the information submitted is not consistent with the approved housing strategy, or the insular area has not submitted information on § 92.61 (b)(4), (b)(6), and (b)(7), if applicable, or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs, the insular area may be required to furnish such further information or assurances as HUD may consider necessary to find the program description and certifications satisfactory. The HUD Field Office shall work with the insular area to achieve a complete and satisfactory program description.

(b) *Review period.* The HUD Field Office will notify the insular area if its program description is not consistent with its approved housing strategy, or determinations cannot be made under § 92.61 (b)(4), (b)(6), or (b)(7), or if the proposed projects or activities are beyond currently demonstrated capability, within 30 days of receipt. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information to show it is consistent or to revise the proposed projects or activities in its program description.

(c) *HOME Investment Partnership Agreement.* After Field Office approval under this section, a HOME funds allocation is made by HUD execution of the agreement, subject to execution by the insular area. The funds are obligated on the date HUD notifies the insular area of HUD's execution of the agreement in accordance with this section and § 92.501.

§ 92.63 Amendments to program description.

An insular area must submit to HUD for approval any substantial change in its HUD-approved program description that it makes during the fiscal year and must document any other changes in its file. A substantial change involves a change in the guidelines for resale (§ 92.61(b)(4)), other forms of investment (§ 92.61(b)(6)), minority and women business outreach program (§ 92.61(b)(7)), or a change in tenure type of the project or activities, or a funding increase to a project or activity of $100,000 or 50% (whichever is greater). The HUD Field Office will notify the insular area if its program description, as amended, is not consistent with its approved housing strategy, or determinations cannot be made under § 92.61 (b)(4), (b)(6), or (b)(7), or if the level of proposed projects or eligible activities is not within the management capability demonstrated by past performance in housing and community development programs, within 30 days of receipt. The insular area will have a reasonable period of time, agreed upon mutually, to submit the necessary supporting information to show it is consistent or to revise the proposed projects or activities in its program description.

§ 92.64 Applicability of requirements to insular areas.

(a) Insular areas are subject to the same requirements in subpart E (Program Requirements), subpart F (Project Requirements), subpart K (Program Administration), and subpart L (Performance Reviews and Sanctions) of this part as participating jurisdictions, except for the following:

(1) Subpart E (Program Requirements): Sections 92.208 through 210 do not apply. The prohibition, in § 92.214(a) against using HOME funds to defray administrative cost does not apply, and in addition to the costs listed in § 92.206, administrative costs of an insular area not to exceed 15 percent of the HOME funds provided to the insular area are eligible costs. The matching contribution requirements in §§ 92.218 through 92.221 do not apply.

(2) Subpart K (Program Administration):

(i) Section 92.500 (The HOME Investment Trust Fund) does not apply. HUD will establish a HOME account in the United States Treasury and the HOME funds must be used for approved activities. A local account must be established for repayment, interest and other return of investment of HOME funds. HUD will recapture HOME funds in the HOME Treasury account by the amount of:

(A) Any funds that are not committed within 24 months after the last day of the month in which the funds were deposited in the account;

(B) Any funds that are not expended within five years after the last day of the month in which the funds were deposited in the account; and

(C) Any penalties assessed by HUD under § 92.552.

(ii) Section 92.502 (Cash and Management Information System) applies, except that references to the HOME Investment Trust Fund mean HOME account and the reference to 24 CFR part 58 does not apply. In addition, § 92.502(c) does not apply, and compliance with Treasury Circular No. 1075 (31 CFR part 205) is required.

(iii) Section 92.503 (Repayment of investment) applies, except that repayments, interest and other return on investment of HOME funds may be retained provided the funds are used for eligible activities in accordance with the requirements of this section.

(3) Section 92.504 (Participating jurisdiction responsibilities; written agreements; monitoring) applies, except that the written agreement must ensure compliance with the requirements in this section.

(4) Section 92.508 (Recordkeeping) applies with respect to the records that relate to the requirements of this section.

(5) Section 92.509 (Performance reports) applies, except that a performance report is required only after completion of the approved projects.

(6) Subpart L (Performance Reviews and Sanctions): Section 92.522 does not apply. Instead, § 92.65 applies.

(b) The requirements in subpart H (Other Federal Requirements) of this part apply, except that insular areas must comply with affirmative marketing, flood insurance, labor and lead-based paint requirements applicable to participating jurisdictions. In addition, an insular area must advise HUD when it proposes specific properties to be utilized in its program, and HUD will perform an environmental review with respect to those properties in accordance with 24 CFR part 50. The insular area will supply HUD with available, relevant information necessary for that review, will carry out mitigating measures required by HUD or select alternate eligible property, and will not acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds to these program activities with respect to any eligible property, until HUD approval is received.

(c) Subpart B (Allocation Formula), subpart C (Participating Jurisdiction: Designation and Revocation of Designation—Consortia), subpart D (Program Description), and subpart G (Community Housing Development Organizations) of this part do not apply.

§ 92.65 Funding sanctions.

Following notice and opportunity for informal consultation, HUD may withhold, reduce or terminate the assistance where any corrective or remedial actions taken under § 92.551 fail to remedy a recipient's performance deficiencies, and the deficiencies are sufficiently substantial, in the judgment of HUD, to warrant sanctions.

§ 92.66 Reallocation.

HUD will reallocate to the states any HOME funds reduced or recaptured from an insular area, and which are not used to increase the allocation amount for one or more of the remaining insular areas as provided in § 92.60 of this part, in accordance with the requirements in subpart J for reallocating funds initially allocated to a state.

Dated: June 22, 1992.

Jack Kemp,

Secretary.

[FR Doc. 92–18596 Filed 8–4–92; 8:45 am]

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federal register

Wednesday
August 5, 1992

Part V

Department of Education

34 CFR Part 8

Demands for Testimony or Records in Legal Proceedings; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 8

RIN: 1880-AA45

Demands for Testimony or Records in Legal Proceedings

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education (Secretary) adds a new part 8 to title 34 of the Code of Federal Regulations establishing a procedure for departmental response to subpoenas or other demands for departmental employees to testify about, or produce records concerning, departmental matters in private litigation or other proceedings in which the United States is not a party. These regulations are intended to minimize the disruption of official duties caused by compliance with those demands, to maintain departmental control over the release of official information, and otherwise to protect the interests of the United States. They prohibit Department of Education employees from complying with those demands without the Secretary's permission.

EFFECTIVE DATE: These regulations take effect on August 5, 1992, with the exception of § 8.3(a). Section 8.3(a) will become effective after the information collection requirements contained in that section have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of § 8.3(a), call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Rob Wexler, U.S. Department of Education, Office of the General Counsel, 400 Maryland Avenue, SW., room 4083, FOB-6, Washington, DC 20202-2243, (202) 401-3690. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The regulations provide that, in response to subpoenas or other demands for testimony or records concerning departmental matters in private litigation or other proceedings in which the United States is not a party, Department of Education employees may testify or produce records only if the Secretary or the Secretary's delegate authorizes compliance with the demand. In making this determination, the Secretary or his or her delegate will consider whether compliance is in accordance with applicable laws, rules, and regulations and would not be contrary to the interests of the United States. The regulations provide for the handling of all other demands for records by treating them as requests for records under the Freedom of Information Act (5 U.S.C. 552).

The courts have recognized the authority of federal agencies to limit compliance with those demands in this manner. See *United States ex. rel. Touhy* v. *Ragan*, 340 U.S. 462 (1951). Moreover, subpoenas by State courts, legislatures, or legislative committees that attempt to assert jurisdiction over federal agencies are inconsistent with the Supremacy Clause of the U.S. Constitution, and a federal regulation regarding compliance with those subpoenas reinforces this principle. See *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316 (1819); *U.S.* v. *McLeod*, 385 F.2d 734 (5th Cir. 1967).

These regulations do not apply to situations in which the United States is a party in a lawsuit. They also do not apply to instances in which an employee is requested to appear in adjudicative, legislative, or administrative proceedings unrelated to information concerning Federal activities or the employee's duties at the Department. Finally, the regulations do not apply to subpoenas or requests for information submitted by either House of Congress or by a congressional committee or subcommittee with jurisdiction over the matter for which the testimony or information is requested.

Executive Order 12600

These regulations would not supersede the procedures followed pursuant to Executive Order 12600 in responding to requests for information under the Freedom of Information Act (FOIA). Should a request for information under the FOIA involve "confidential commercial information," the provisions of Executive Order 12600 would apply.

Paperwork Reduction Act of 1980

Section 8.3(a) contains an information collection requirement. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of this section to the Office of Management and Budget for its review. (44 U.S.C. 3504(h))

The collection requirement affects organizations and individuals submitting subpoenas or other demands to the Department in legislative or administrative proceedings or in litigation in which the United States is not a party. It requires summarizing the testimony or records being sought and is needed to determine whether to authorize an employee to comply with the demand.

It is estimated that there will be approximately 25 respondents each year, that a respondent will have to meet the collection requirement once annually, and that the responses will take an average of one hour to complete. Therefore, the estimated annual reporting burden of this collection requirement is 25 hours. It also is estimated that there will not be any recordkeeping burden.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Waiver of Proposed Rulemaking

The Secretary has determined, under 5 U.S.C. 553(a)(2), that these regulations do not require public notice and comment because they are rules regarding a matter relating to agency management and personnel.

List of Subjects in 34 CFR Part 8

Administrative practice and procedure, Availability of information, Education Department, Freedom of Information Act.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: July 31, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by adding a new part 8 to read as follows:

PART 8—DEMANDS FOR TESTIMONY OR RECORDS IN LEGAL PROCEEDINGS

Sec.

Authority: 5 U.S.C. 301; 5 U.S.C. 552; 20 U.S.C. 3474, unless otherwise noted.

§ 8.1 What is the scope and applicability of this part?

(a) Except as provided in paragraph (c) of this section, this part establishes

the procedures to be followed if the Department or any departmental employee receives a demand for—

(1) Testimony by an employee concerning—

(i) Records contained in the files of the Department;

(ii) Information relating to records contained in the files of the Department; or

(iii) Information or records acquired or produced by the employee in the course of his or her official duties or because of the employee's official status; or

(2) The production or disclosure of any information or records referred to in paragraph (a)(1) of this section.

(b) This part does not create any right or benefit, substantive or procedural, enforceable by any person against the Department.

(c) This part does not apply to—

(1) Any proceeding in which the United States is a party before an adjudicative authority;

(2) A demand for testimony or records made by either House of Congress or, to the extent of matter within its jurisdiction, any committee or subcommittee of Congress; or

(3) An appearance by an employee in his or her private capacity in a legal proceeding in which the employee's testimony does not relate to the mission or functions of the Department.

(Authority: 5 U.S.C. 301; 20 U.S.C. 3474)

§ 8.2 What definitions apply?

The following definitions apply to this part:

Adjudicative authority includes, but is not limited to—

(1) A court of law or other judicial forums; and

(2) Mediation, arbitration, or other forums for dispute resolution.

Demand includes a subpoena, subpoena duces tecum, request, order, or other notice for testimony or records arising in a legal proceeding.

Department means the U.S. Department of Education.

Employee means a current employee or official of the Department or of an advisory committee of the Department, including a special government employee, unless specifically provided otherwise in this part.

Legal proceeding means—

(1) A proceeding before an adjudicative authority;

(2) A legislative proceeding, except for a proceeding before either House of Congress or before any committee or subcommittee of Congress, to the extent of matter within the committee's or subcommittee's jurisdiction; or

(3) An administrative proceeding.

Secretary means the Secretary of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

Testimony means statements made in connection with a legal proceeding, including but not limited to statements in court or other forums, depositions, declarations, affidavits, or responses to interrogatories.

United States means the Federal Government of the United States and any of its agencies or instrumentalities.

(Authority: 5 U.S.C. 301; 20 U.S.C. 3474)

§ 8.3 What are the requirements for submitting a demand for testimony or records?

(a) A demand for testimony of an employee or former employee, or a demand for records issued pursuant to the rules governing the legal proceeding in which the demand arises—

(1) Must be in writing; and

(2) Must state the nature of the requested testimony or records and why the information sought is unavailable by any other means.

(b) Service of a demand for testimony of an employee or former employee must be made on the employee or former employee whose testimony is demanded, with a copy simultaneously delivered to the General Counsel, U.S. Department of Education, Office of the General Counsel, 400 Maryland Avenue, SW., room 4083, FOB–6, Washington, DC 20202–2100.

(c) Service of a demand for records, as described in § 8.5(a)(1), must be made on an employee or former employee who has custody of the records, with a copy simultaneously delivered to the General Counsel at the address listed in paragraph (b) of this section. For assistance in identifying the custodian of the specific records demanded, contact the Records Management Branch Chief, Office of Information Resources Management, U.S. Department of Education, 7th and D Streets, SW., ROB–3, Washington, DC 20202–4753.

(Authority: 5 U.S.C. 301; 20 U.S.C. 3474)

§ 8.4 What procedures are followed in response to a demand for testimony?

(a) After an employee receives a demand for testimony, the employee shall immediately notify the Secretary and request instructions.

(b) An employee may not give testimony without the prior written authorization of the Secretary.

(c)(1) The Secretary may allow an employee to testify if the Secretary determines that the demand satisfies the requirements of § 8.3 and that granting permission—

(i) Would be appropriate under the rules of procedure governing the matter in which the demand arises and other applicable laws, rules, and regulations; and

(ii) Would not be contrary to an interest of the United States, which includes furthering a public interest of the Department and protecting the human and financial resources of the United States.

(2) The Secretary may establish conditions under which the employee may testify.

(d) If a response to a demand for testimony is required before the Secretary determines whether to allow an employee to testify, the employee or counsel for the employee shall—

(1) Inform the court or other authority of the regulations in this part; and

(2) Request that the demand be stayed pending the employee's receipt of the Secretary's instructions.

(e) If the court or other authority declines the request for a stay, or rules that the employee must comply with the demand regardless of the Secretary's instructions, the employee or counsel for the employee shall respectfully decline to comply with the demand, citing *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951), and the regulations in this part.

(Authority: 5 U.S.C. 301; 20 U.S.C. 3474)

§ 8.5 What procedures are followed in response to a demand for records?

(a)(1) After an employee receives a demand for records issued pursuant to the rules governing the legal proceeding in which the demand arises, the employee shall immediately notify the Secretary and request instructions.

(2) If an employee receives any other demand for records, the Department—

(i) Considers the demand to be a request for records under the Freedom of Information Act; and

(ii) Handles the demand under rules governing public disclosure, as established in 34 CFR part 5.

(b) An employee may not produce records in response to a demand as described in paragraph (a)(1) of this section without the prior written authorization of the Secretary.

(c) The Secretary may make these records available if the Secretary determines that the demand satisfies the requirements of § 8.3 and that disclosure—

(1) Would be appropriate under the rules of procedure governing the matter in which the demand arises and other applicable laws, rules, and regulations; and

(2) Would not be contrary to an interest of the United States, which includes furthering a public interest of the Department and protecting the human and financial resources of the United States.

(d) If a response to a demand for records as described in paragraph (a)(1) of this section is required before the Secretary determines whether to allow an employee to produce those records, the employee or counsel for the employee shall—

(1) Inform the court or other authority of the regulations in this part; and

(2) Request that the demand be stayed pending the employee's receipt of the Secretary's instructions.

(e) If the court or other authority declines the request for a stay, or rules that the employee must comply with the demand regardless of the Secretary's instructions, the employee or counsel for the employee shall respectfully decline to comply with the demand, citing *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951), and the regulations in this part.

(Authority: 5 U.S.C. 301; 5 U.S.C. 552; 20 U.S.C. 3474)

[FR Doc. 92–18620 Filed 8–4–92; 8:45 am]

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federal register

Wednesday
August 5, 1992

Part VI

Department of the Treasury

Fiscal Service

31 CFR Part 210

Federal Payments Made Through Financial Institutions by the Automated Clearing House Method; Proposed Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 210

RIN 1510-AA20

Federal Payments Made Through Financial Institutions by the Automated Clearing House Method

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking proposes revision to 31 CFR 210.6(c) to clarify three points: (1) The Federal Reserve Banks deliver Government ACH payment transactions either directly or through other Federal Reserve Banks; (2) the Federal Reserve Banks may determine the media for delivery; and (3) the Federal Reserve Banks make the payment information available before the opening of business on the payment date.

This notice of proposed rulemaking announces that it is the policy of the Department of the Treasury (Treasury) that the benefits of all-electronic ACH should extend to financial institutions that are Government only receivers (GORs) of ACH transactions, as well as to the recipients of Government ACH payments through GORs. Treasury will direct the Federal Reserve Banks to implement this policy in their capacity as fiscal agents of the United States. New GORs will be encouraged to receive their Government ACH transactions by establishing electronic access with their servicing Federal Reserve Bank.

The Federal Reserve Board (56 FR 28157, June 19, 1991) mandated that all depository institutions that originate or receive commercial ACH transactions through Federal Reserve Banks establish electronic access to the Federal Reserve for ACH services by July 1, 1993.

Treasury seeks comment on its proposal that GORs establish electronic access to the Federal Reserve by July 1, 1994. Implementation would require that, by July 1, 1993, GORs receiving ACH transactions by nonelectronic means inform their servicing Federal Reserve Bank of their plans to establish electronic access with their Federal Reserve Bank, or of their plans to receive their Government ACH transfers through a correspondent that has electronic access to the Federal Reserve.

All-electronic Government ACH will improve the efficiency of the ACH mechanism by promoting timely posting of ACH debits and credits to customer accounts, and will enhance the integrity of the ACH mechanism by providing a higher level of security and improving contingency and disaster recovery capabilities.

DATES: Comments on this proposed rule must be received by October 5, 1992.

ADDRESSES: Comments may be mailed to the Financial Innovation Division, Financial Management Service, U.S. Department of the Treasury, room 514, Liberty Center, 401 14th Street, SW., Washington, DC 20227.

FOR FURTHER INFORMATION CONTACT: Janelle W. Edgar, Electronic Initiatives Branch, (202) 874-6644.

SUPPLEMENTARY INFORMATION:

Background

The ACH is a value dated electronic payments mechanism that supports both debit and credit payments. Recipients of Federal benefit, payroll, retirement, vendor and other payments may elect to receive such payments through the ACH system.

As of March 1992, the Federal Reserve Banks delivered ACH transactions to approximately 9,500 receiving points. Approximately 7,800 of these are eligible to receive commercial and Government ACH transactions. These are required, by the June 1991, Federal Reserve Board policy, to establish electronic access to Federal Reserve Banks, for ACH services, by July 1, 1993. The remainder of the approximately 1,700 receiving points receive only Government ACH transactions. About 90 of these are connected electronically to a Federal Reserve Bank. The remaining GOR endpoints receive ACH transactions by nonelectronic means, using magnetic tape, diskette, or paper media. The majority of these nonelectronic endpoints receive paper listings. While some nonelectronic endpoints use messengers to deposit and pickup ACH output, most receive ACH output by Federal Reserve Courier or by mail.

The additional time required to deliver ACH output to nonelectronic endpoints means that information necessary to update customer accounts may not be available to some GORs until after the opening of business on the settlement date. Moreover, the level of security and disaster recovery capability associated with nonelectronic receipt and delivery of ACH payments are lower than those associated with electronic transmission.

Treasury supports the Federal Reserve plan of action to make significant improvements to its commercial ACH service by requiring that all participants access the ACH service electronically for the origination and receipt of commercial ACH transactions. It is Treasury's policy to extend these improvements in ACH service to Government receivers. The establishment of an all-electronic ACH for GORs would provide benefits to the Government, the receiving financial institutions and to recipients of Government ACH payments.

Benefits of an All-Electronic ACH

An all-electronic ACH will increase the speed with which Government ACH payments are delivered, reduce the number of erroneous payments, provide a higher level of security and improve disaster recovery and contingent processing capabilities. Regulations, at 31 CFR 210.7(d), require the financial institution to make the amount of the payment available for withdrawal no later than the opening of business on the payment date. The increased speed of delivery of Government ACH payments will ensure that all GORs, regardless of payment volume or location, would receive ACH output on a timely and consistent basis. Consistent with the objectives of the Expedited Funds Availability Act of 1987 and ACH rules, timely delivery of Government ACH payments enables receiving institutions to post the payments to their customers' accounts sooner and to provide prompter availability of funds. Currently, some institutions that receive ACH output by mail do not have sufficient time to process the payments and update accounts by the settlement date. Even with courier delivery, transportation delays may cause untimely posting of accounts. Electronic delivery of payment information to GORs would aid the receiving financial institutions, by ensuring time for the prompt posting of accounts.

All-electronic ACH will benefit both payment receivers and Government agencies by reducing the number of erroneous payments made to program recipients for whom an agency received a notice of death after payment was initiated. In 1991 Federal agencies had to request over 380,000 reclamations for such erroneous payments. The all-electronic ACH will reduce reclamations by shortening the interval between agency initiation of a payment and its receipt by a financial institution. The time saved will be made possible by a reduction of the time required by the Federal Reserve Bank to ensure timely delivery of ACH files. Consequently, agency program data from which payments are determined will be up to several days more current. SSA, for example, will be able to reduce reclamations by 2,400 for each additional day available to SSA to

prepare the monthly list of payments to recipients. SSA and financial institutions will save the cost of processing these reclamations.

An all-electronic ACH network will result in a higher level of security for Government payments. The Federal Reserve Banks currently offer data encryption and other security procedures to electronic endpoints to ensure confidentiality of ACH transactions and the authenticity of the sender. This provides a significantly higher level of security than nonelectronic delivery of ACH information.

Finally, an all-electronic ACH will improve disaster recovery and contingency processing capabilities. Over the past few years, occurrences at several Federal Reserve Banks have highlighted the need for reliable contingency processing and disaster recovery procedures for payment services. In a contingency processing or disaster recovery situation, electronic access for delivery of Government ACH transactions would eliminate delays associated with transporting nonelectronic input and output media to and from remote sites.

Proposal To Implement an All-Electronic ACH for GORs

During June 1991, the Federal Reserve Board approved a policy whereby, beginning July 1, 1993, Federal Reserve Banks will cease to provide commercial ACH services to depository institutions that have not established an electronic access for ACH services. Treasury now proposes that, beginning July 1, 1994 (one year after the commercial deadline), the Federal Reserve Banks not provide ACH services to GORs unless they have established electronic access for ACH services. The July 1994, date would provide reasonable time for GORs to establish electronic access and ensure that these financial institutions may continue to provide depository services to Government ACH payment recipients. Treasury further proposes that GORs inform their Federal Reserve Banks, by July 1, 1993, as to whether they intend to establish electronic access directly with the Federal Reserve Bank, or indirectly through a service provider or correspondent bank. This one year advance notice will allow the Government adequate time to arrange alternative methods of delivering payments to the customers of those GORs that choose not to participate in the all-electronic ACH system.

Beginning immediately, new GOR endpoints will be encouraged to have electronic access with their Federal Reserve Banks.

The Federal Reserve Banks have developed electronic access alternatives and are devoting additional resources to the electronic conversion effort.

Electronic Access Alternatives

The Federal Reserve currently offers financial institutions several alternatives to facilitate electronic access to the Reserve Banks for a variety of services, including the receipt of Government ACH payments. Recognizing differences in transaction volume, electronic access alternatives are available to meet the needs of financial institutions.

Financial institutions receiving a low to medium volume of ACH items (between 1,000 and 10,000 items per month) may use an intelligent terminal system (Fedline) developed and certified by the Federal Reserve. The Fedline software fully supports the ACH service, as well as other Federal Reserve services. Financial institutions may also use vendor supplied software approved by the Federal Reserve.

The Federal Reserve Banks also offer an intelligent terminal software product (FLASH-Light) for low volume (less than 1,000 items per month) financial institutions. FLASH-Light is a receive-only system that enables Federal Reserve Banks to transmit ACH output electronically in a format that allows financial institutions to print the ACH payment information.[1]

Federal Reserve Banks will assist financial institutions in identifying sources that offer equipment that is compatible with Federal Reserve supplied software. Vendors also offer, or are developing, electronic access products that conform to the Federal Reserve's network protocol and data security standards.

In lieu of establishing direct electronic access, GORs may access ACH services through correspondent institutions or other service providers that do have electronic access. When a correspondent or other service provider acts as the receiving point for a financial institution, it is deemed an agent for the institution. To achieve the full benefits of an all-electronic ACH service for GORs, financial institutions that choose to receive ACH payments through a correspondent or other service provider are encouraged to arrange for delivery of the payments in a manner that ensures timely receipt by the GOR.

From time to time, financial institutions need to originate return items or Notification of Change (NOC) transactions. To enable low volume institutions using FLASH-Light, or institutions that receive transactions through a correspondent, or other ACH service provider, to originate return or NOC transactions, all Federal Reserve Banks will offer a database service with telephone voice response by year-end 1992. This service will create a return item or NOC transaction from the information about the original transaction that is stored in a database, and information that the financial institution keys in using a touchtone phone. The Federal Reserve Banks will continue to receive paper return items or NOCs for processing where technical problems prevent the electronic transmission of data. Examples of these problems include where missing forward transaction information precludes the use of the database to generate the return of NOC transaction; where touchtone service is not available; or, where the NOC requires extensive alpha characters.

Converting to electronic access using Federal Reserve supplied software will entail one time installation and retraining and an encryption board, which are expected to cost approximately $1,000 for each receiving point. The total cost for converting all of the estimated non-electronic receiving points of Government-only payments is estimated at $1.6 million. Institutions which elect vendor supplied software also will incur a Federal Reserve software certification fee. There are no other costs of converting to electronic access, since GORs are not assessed monthly electronic connection or transaction fees.

Treasury recognizes that this proposal will require an initial investment for some financial institutions. However, the benefits of all-electronic ACH for GORs justifies the associated costs.

Government ACH Payments

Part 210 of Title 31 of the Code of Federal Regulations sets forth the rights and liabilities of the Government, the financial institutions and the payment recipient where a recipient of Federal payments authorizes Direct Deposit of the payments and the payments are made by the ACH method. The regulations in this part were

[1] Financial institutions with medium to high volume of ACH transactions (greater than 10,000 items per month) may use one of two computer interface alternatives with dedicated leased line communication links. The Federal Reserve Banks can provide transmission (bulk data) software that enables financial institutions to interface with the Banks. Alternatively, financial institutions or their vendors may develop software using the Federal Reserve's Computer Interface Protocol Specifications (CIPS) to customize their ACH processing to meet the needs of their operating environment. Few, if any, GOR financial institutions would require this type of electronic access.

promulgated in 1975 and revised in 1976, 1984, 1987 and 1989.

Treasury proposes revision of Part 210 to clarify that the Federal Reserve Banks may prescribe the medium over which they deliver Government ACH payments. This revision will facilitate implementation of an all-electronic ACH program with GORs.

The proposed revision also uses more general language in stating how a Federal Reserve Bank routes ACH transactions. This revision reflects the current ACH operating environment and anticipates the consolidation of ACH processing by the Federal Reserve Banks.

Further, the proposed revision states that the payment instruction be delivered not later than the opening of business on the payment date. Regulations currently require the Federal Reserve to deliver the ACH payments not later than the close of business for the financial institution on the business day prior to the payment date. The current wording fails to reflect that some financial institutions may establish an early close for their business day, or may be closed on the business day prior to the payment date.

Request for Comments

Comments on all aspects of this notice are requested. Treasury specifically requests comments on the following:

1. Would existing nonelectronic GOR receiving points encounter any significant obstacles that would prevent them from converting to electronic receipt of ACH payments by July 1994?

2. Are there any incentives that would facilitate GOR conversion to an all-electronic ACH by July 1994?

3. Would all-electronic ACH of Government ACH payments cause GOR financial institutions to stop participating in the ACH?

4. Would the requirement to convert to an electronic access prompt GOR financial institutions that currently receive ACH output directly from the Federal Reserve to seek ACH services through a correspondent institution or service bureau?

5. Does the July 1993 date for GORs to schedule a conversion to electronic receipt provide sufficient time for financial institutions to make final determinations on whether to continue participating in the Government ACH system?

It has been determined that this proposed rulemaking document is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required. The document makes technical corrections to previously published regulations and clarifies existing practice. It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The proposed rule clarifies existing practice. The included proposal is expected to result in improvements to the ACH process, with advantages to institutions and recipients. The provisions of the Paperwork Reduction Act do not apply to this proposed rulemaking because no requirement to collect information is proposed.

List of Subjects in 31 CFR Part 210

Banks, Banking, Electronic funds transfer, Federal Reserve System.

Accordingly, Title 31, Part 210 of the Code of Federal Regulations, is proposed to be amended by revising § 210.6(c) as follows:

PART 210—FEDERAL PAYMENTS THROUGH FINANCIAL INSTITUTIONS BY THE AUTOMATED CLEARING HOUSE METHOD

1. The authority citation for part 210 continues to read as follows:

Authority: 5 U.S.C. 5525; 12 U.S.C. 391; 31 U.S.C. 321; and other provisions of law.

§ 210.6 [Amended]

2. Paragraph (c) of § 210.6 is revised to read as follows:

* * * * *

(c) Upon receipt of a payment instruction, a Federal Reserve Bank, either directly or through another Federal Reserve Bank, shall deliver or make available to the financial institution identified in the payment instruction the information contained in the payment instruction not later than the opening of business on the payment date on a medium as prescribed by the Federal Reserve Bank.

* * * * *

Michael T. Smokovich,

Acting Commissioner.

[FR Doc. 92-18539 Filed 8-4-92; 8:45 am]

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federal register

Wednesday
August 5, 1992

Part VII

Department of the Interior

Bureau of Indian Affairs

Indian Gaming: Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710 of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved the Wisconsin Winnebago Tribe and State of Wisconsin Gaming Compact of 1992 executed on June 11, 1992.

DATE: This action is effective August 5, 1992.

ADDRESS: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Tribal Government Services, Bureau of Indian Affairs, Washington, DC 20240, (202) 208–7446.

Dated: July 30, 1992.

William D. Bettenberg,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 92–18542 Filed 8–4–92; 8:45 am]

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federal register

Wednesday
August 5, 1992

Part VIII

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1926

Safety Standards for Fall Protection in the Construction Industry; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-206A]

Safety Standard for Fall Protection in the Construction Industry

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed rule; limited reopening of rulemaking record.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is reopening its record on the proposed safety standard for fall protection in the construction industry, (51 FR 42718, November 25, 1986). The purpose of the limited reopening of the record is to consider new information regarding the appropriate fall protection needs of employees engaged in precast concrete construction. The new information and evidence received as a result of this action will be considered by the Agency in developing its final rule for fall protection in the construction industry.

DATES: Comments on this proposal must be postmarked by November 3, 1992.

ADDRESSES: Comments are to be sent to the Docket Office, Docket No. S-206A, U.S. Department of Labor, room N2625, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, Room N3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

I. Background

On November 25, 1986, OSHA proposed to revise the fall protection requirements for construction and to consolidate those provisions in subpart M of part 1926 (51 FR 42718). The Agency held informal public hearings regarding proposed subpart M on March 22-23, 1988, with Administrative Law Judge Joel Williams presiding. At the close of the hearings, Judge Williams set posthearing comment periods which ended on May 9, 1988. On August 11, 1989, the Administrative Law Judge certified the hearing record.

Based on its review of the rulemaking record, OSHA has determined that the Agency needs to consider additional information regarding the appropriate means by which employees engaged in precast concrete construction work can be protected from fall hazards. Therefore, OSHA decided that it is in the public interest for the Agency to consider the information that has been developed regarding this issue and to allow the public an opportunity to comment on that information. Accordingly, OSHA is reopening the record for the limited purpose of soliciting comment on fall protection for employees engaged in precast concrete construction work.

In the preamble to the proposed fall protection rule (51 FR 42721), OSHA acknowledged that there are precast concrete erection operations at the leading edge where the use of conventional fall protection systems would be infeasible. In particular, in discussing proposed § 1926.501(b)(2) Leading edges, OSHA acknowledged that erecting guardrails along a leading edge would not be feasible since the guardrail would have to be removed and relocated within a few minutes of its being erected to allow another structural member to be placed. Further, OSHA stated the following:

> OSHA also believes that a requirement to erect safety nets often is not feasible because of insufficient room to rig a safety net and because the net would have to be constantly moved. In addition, OSHA believes that body belts and harnesses are not always appropriate means of fall protection along leading edges as they limit an employees' freedom of movement which can hinder job performance as well as impair an employee's ability to avoid a misdirected incoming piece of concrete or other structural member used on the leading edge. 51 FR at 42721.

Therefore, OSHA proposed that, under certain circumstances, employees could work at the leading edge without positive fall protection as long as those employees were under the observation of a safety monitor who would warn them as they approached danger.

Also, in Issue #2 of the subpart M NPRM, OSHA asked:

> 2. Are there areas or operations in addition to those already identified in proposed § 1926.501, which have unique fall protection requirements not addressed by the proposed standards? Examples of such areas and operations might include carpenters erecting roof trusses during house construction; steel erectors working on other than tiered buildings * * * or connectors erecting wood, precast concrete, and structural members made of other materials. 51 FR at 42729.

The Agency received several comments from the Precast/Prestressed Concrete Institute (PCI) (Exs. 2-44, 2-106 and 2-107) regarding the need for separate fall protection standards for workers engaged in precast concrete erection.

The Agency discussed those comments in the January 26, 1988, Notice of Hearing on subparts L, M, and X (53 FR 2048). Specifically, in Hearing Issue M-2, OSHA stated (53 FR 2054) the following:

> The (Precast/)Prestressed Concrete Institute (PCI) (Ex. 2-44) has commented that fall protection for employees erecting precast concrete components is "not appropriately covered by the proposed regulations" in Subpart M, because, according to the PCI, concrete erectors, like steel erectors, need more freedom of movement than proposed Subpart M would permit. Therefore, the PCI suggested that OSHA revise proposed Subpart M so that precast concrete erection would be regulated under subpart R, Steel Erection. At the August 4, 1987, ACCSH meeting, a PCI representative reiterated the view that connectors of precast concrete members should be provided the same considerations as connectors of steel members saying (Tr. 212): "We feel that the erection procedures and exemptions for steel are basically the same as those for precast concrete * * * Basically, the fall protection of the steel connector, again, would be the same as that for the precast connector." The PCI subsequently submitted comments (Ex. 2-106 an 2-107) which requested that OSHA exempt concrete erectors from proposed leading edge protection requirements in Subpart M and that OSHA exempt hollow core slab erectors from perimeter protection provisions, except for those in proposed § 1926.502(h), Safety monitoring systems.

Hearing Notice Issue M-2 solicited testimony and other information on the concerns raised by PCI. In response, PCI testified at the public hearing (Exs. 6A-9 and 9, and Tr. 53-82, March 22, 1988) and submitted post-hearing comments (Exs. 17 and 19).

Subsequent to the end of the posthearing comment period, OSHA received additional correspondence on behalf of the PCI (Exs. 25-1 and 25-2). In that correspondence PCI (Ex. 25-1) stated that OSHA's "* * * lack of understanding of our unique erection problems will result in the promulgation of rules that will result in endless litigation and not serve the safety needs of the workers." In October 1989, OSHA informed PCI (Ex. 25-3) that the rulemaking record had closed and that, in any event, the late comments simply repeated submissions that had already been included in the record.

On February 12, 1990, PCI again wrote to OSHA (Ex. 25-4) reasserting that compliance with proposed subpart M was not appropriate to protect employees engaged in precast concrete erection. PCI again suggested that OSHA either regulate precast concrete under its own industry specific standard or under subpart R—Steel Erection, because either alternative would be

more applicable than the generic subpart M standard. That submission also contained a detailed discussion of precast concrete erection procedures, including fall protection procedures. OSHA responded (Ex. 25–5) that it would review the information presented in the letter and would reopen the record if significant issues were raised that had not previously been included in the record.

On May 30, 1990, PCI again wrote to OSHA (Ex. 25–6) and expressed concern, "* * * relative to OSHA's work to revise the construction industry safety standards addressing fall protection in both 29 CFR part 1926 subparts M and R (Steel Erection)."

On June 15, 1990, OSHA informed PCI that the information presented in their letters was under review and a decision on further action would be made at the completion of that review.

Based on a careful review of the material submitted in PCI's submissions of February 12, May 30, 1990, OSHA now believes that the new materials submitted by PCI indicate that precast concrete construction entails unique work conditions which should be specifically addressed by the construction standards. As noted above, OSHA believes that it is appropriate to reopen the subpart M rulemaking record for the limited purpose of including the late submissions from PCI and receiving comments on those submissions before a final rule is issued setting forth fall protection requirements for precast concrete construction work.

The submissions noted above are available for copying and inspection in the OSHA Docket Office (Docket S–206A). The PCI submissions which led the Agency to reopen the rulemaking record are summarized below, to assist the public in preparing comments on the issues raised in this notice.

[Exhibit 25–4] PCI's February 12, 1990 Letter

In this exhibit, PCI submitted background information and specific fall protection recommendations for incorporating a new paragraph (b)(11), which would address the unique conditions to be considered in determining how to provide adequate fall protection during a particular precast concrete erection task.

In particular, PCI suggested that OSHA revise proposed subpart M to require that precast concrete erection employers implement a "safety erection plan" (SEP). Under this approach, fall protection would be an integral element of the planning for precast concrete erection projects. OSHA notes that the PCI-suggested SEP addresses matters other than fall protection. While OSHA acknowledges that a SEP could facilitate the precast concrete erection process, the Agency has determined that the erection of structures and such matters as guying and bracing are outside the scope of proposed subpart M. Therefore, this notice will address only those elements of the suggested SEP that relate to fall protection.

In addition, the PCI submission suggested that OSHA require training that would enable employees performing precast concrete erection to recognize fall hazards and to know and follow the proper fall protection procedures. PCI recommended training in the following specific areas, as appropriate:

(a) The identification of fall hazards in the work area.

(b) The use and operation of safety monitoring systems, guardrail systems, safety railing systems, body belt/harness systems, warning line systems, control zones and other protection to be used.

(c) The correct procedure for erecting, maintaining, disassembling and inspecting the system(s) to be used.

(d) The role of each employee in the safety monitoring system and how this system is used.

(e) The existing fall protection standards and regulation.

OSHA notes that the training requirements suggested by PCI are consistent with the provisions of proposed § 1926.503.

PCI also suggested that "(a)ll concrete erection work subject to special fall protection requirements shall be conducted under the supervision of a competent person * * *" In particular, PCI recommended that the competent person perform the following tasks:

(a) Determine and document those erection tasks which when performed in compliance with the current regulatory fall protection requirements create a greater hazard.

(b) Make individual determinations as to the experience, skills, special training received (apprenticeship program or equivalent course for the erection of precast concrete recognized by the Department of Labor's Bureau of Apprenticeship and Training), and knowledge of the employees as they relate to the employee's ability to perform designated activities. Only employees authorized by the employer shall be designated erectors and be allowed to perform activities deemed to create a greater hazard. Designated erectors shall receive instructions pertaining to designated activities as contained in the safety erection plan.

(c) Provide distinctive means to easily enable identification of the designated erectors when performing designated activities.

(d) Supervise implementation of the safety erection plan.

In addition, the February 12, 1990 letter detailed PCI's views as to how each of three typical precast concrete operations should be regulated with regard to fall protection. In particular, PCI set forth suggested fall protection provisions for (1) erecting precast concrete cladding; (2) erecting floor and roof deck members; and (3) erecting "total precast" structures. For each type of operation, PCI described the operation, outlined how fall protection should be provided for each task and specified the responsibilities of the competent person. Highlights of PCI's submission for each of the three operations are presented below.

Erecting Precast Concrete Cladding

Typically, according to PCI, when precast concrete is utilized strictly as a cladding member, it is attached to a reinforced concrete or structural steel frame provided by other contractors. Installation work for concrete cladding is usually performed from finished working surfaces, with structural frame erection running well ahead of actual installation of the exterior wall components. PCI then recommended:

> All layout work for precast concrete cladding shall be performed with the perimeter protection in place or with the use of proper fall protection. The perimeter protection may be removed as the cladding is being installed. Removal of perimeter protection, usually performed by the precast concrete erection crew, should be performed on a bay to bay basis, just ahead of precast concrete erection, to minimize temporarily unprotected floor edges and openings. Those workers receiving, positioning, and making initial connections of the precast concrete cladding shall (1) work behind perimeter protection; (2) be tied off; or (3) be supervised by a safety monitor, specifically training to perform these duties.

Erection of Floor and Roof Deck Members

PCI described the setting for this operation as follows:

> * * * The work deck continuously increases in area as more and more units are being erected. Thus, the unprotected floor/roof perimeter is constantly modified with the leading edge changing location as each member is installed. The workers (precast erectors—connectors, welders, detailers and/or grouters) are experienced employees and knowledgeable about the work deck, its edges and openings.

PCI recommended, based on its assessment of the situation, that:

Fall protection of workers at the leading edge shall be assured by properly constructed and maintained control zone lines supplemented by a safety monitoring system to ensure the safety of all precast concrete erectors working within the area defined by the control zone lines.

They further recommended that the "control zone lines shall be kept as much as sixty (60) feet away from the leading edge and reinstalled from time to time as the leading edge changes locations." PCI based this suggestion on the observations that (1) a member may be as long as 120 feet and that, (2) if it is necessary to rotate the member, clearance of at least half its length, 60 feet, is necessary to avoid having the member become entangled in the control zone lines. OSHA is considering if, based on the considerations raised by PCI, the Agency should revise proposed § 1926.502(g)(1) (criteria for control zone systems) to allow the control zone line to be erected more than 25 feet back from the leading edge in such situations.

PCI also stated that "workers welding, bolting, cutting and/or grouting floor/roof deck members outside the limits of the control zone but more than 6 feet from the edge as defined by a warning line do not require fall protection." OSHA notes that its enforcement policy does not currently permit the issuance of citations in those situations where employees are 6 feet or more back from the perimeter of a floor or roof or other walking/working surface since the employee essentially "has no exposure" to the fall hazard. PCI recommends that workers who are performing tasks outside the limits of the control zone and less than 6 feet from the edge be protected by one of the following methods: (1) Tied off; (2) safety monitoring system; or (3) safety railing system.

Erecting "Total Precast" Structures

PCI described the setting for this work as follows:

The erection of a structure utilizing precast/prestressed concrete members involves the sequential placement of columns, beams, wall panels, and floor and roof members which are positioned by a crane in conjunction with a specialized crew and then welded, bolted and/or grouted together.

In accordance with the erection drawings, the structural frame made up of columns, walls and beams shall be installed and connected to create a stabilized support system for the floor and/or roof members.

PCI recommended that OSHA require precast concrete erector employers engaged in such operations to protect their employees from fall hazards as follows:

Employees engaged in initial connecting, point to point movement, guying and bracing of the precast concrete frame members shall be designated by the competent person supervising the project as having received special training and possessing experience, skill and knowledge to work at the point of erection.

Initial beam to column and/or wall connections and required point to point movement shall be made from ladders, scaffolds, mechanical work platforms, vehicle mounted elevated and rotating work platforms or similar type equipment except from those *documented* (emphasis added) erection tasks which, when performed in compliance with the fall protection requirements of subpart M create a greater hazard.

PCI also suggested that OSHA require the training of employees in the proper use and inspection of any body belt/harness systems they are required to use. Again, OSHA notes that the training suggested by the PCI is very similar to that required in proposed § 1926.503.

[Exhibit 25–6] PCI's May 30, 1990 letter

PCI again suggested that precast concrete erection either be included in subpart R along with steel erection or be covered by a separate section within subpart M. PCI also suggested that the one cable safety railing currently permitted in steel erection (§ 1926.751(b)(1)(iii)) also be allowed for precast concrete erection, explaining that "* * * slinging a cable across a column is quite easy to do" and that "* * * the safety railing previously installed by the steel erector and left in place would be sufficient protection for the precast concrete erection crew to proceed with actual product installation * * *" They also requested that OSHA permit safety monitoring systems to be used for all employees actually constructing the floor, including welders and grouters working outside the control zone.

Request for Comments

The PCI submissions indicate that precast concrete construction work involves a wide range of operations and tasks and that the general requirements in the proposed subpart M standard to use guardrail systems, body belt/harness systems, or safety net systems may not be appropriate to some precast operations. Just as OSHA has recognized the need to set forth industry-specific requirements for overhand bricklaying and roofing operations in proposed subpart M, the Agency acknowledges that it may be necessary to promulgate similar provisions which specifically address fall protection for employees performing precast concrete construction.

The PCI submissions contain detailed guidance regarding fall protection. OSHA solicits detailed comments, with supporting information and rationale, as to whether OSHA should adopt the approach to fall protection set forth by PCI as the appropriate regulatory approach for precast concrete construction. The Agency anticipates that any final rule provision that focuses on precast concrete construction work will set criteria for the use of a fall protection plan. For example, OSHA would set criteria that precast concrete construction employers would use to choose the fall protection system that is appropriate in a particular situation. The Agency expects that the employers would consider factors such as the nature and location of the work being done and the extent to which the use of guardrail systems (or safety monitoring systems) would pose hazards. In addition, OSHA would set criteria that precast concrete construction employers would use to determine if it is appropriate to install control zone lines blocking access to the leading edge.

Based on the PCI submissions, OSHA is considering if the Agency should require a precast concrete erection employer whose operations would not appropriately be covered by conventional fall protection or by the leading edge provision, to demonstrate that fact, and to undertake the burden of planning and documenting the alternative means by which their employees will be protected from fall hazards. In particular, OSHA is considering the extent to which PCI's submissions could serve as models for precast concrete erection employers in the development and implementation of fall protection plans which are appropriate for their operations.

OSHA solicits comments, with supporting information, regarding the following issues:

Issue 1

Are there situations where OSHA should allow precast concrete construction employers to protect their employees from fall hazards by means other than conventional fall protection systems (guardrail systems, personal fall arrest systems, or safety net system)? Under what circumstances, if any, would the implementation of safety monitoring or controlled access zone systems, in conjunction with a "fall protection plan," provide fall protection that is equivalent, or superior, to that

provided through the use of conventional systems?

Issue 2

OSHA is considering what information it should require from precast concrete construction employers who seek to establish that the use of conventional fall protection is infeasible or would pose a greater hazard to employees. Therefore, OSHA solicits input, with supporting information, regarding the following questions:

(a) To what extent is it more dangerous for precast concrete construction employees to erect and dismantle a conventional fall protection system than it is to perform a particular operation (such as grouting)? What factors should employers consider in evaluating the relative hazards? For example, employees who are grouting precast concrete members may need to come within two feet of a floor or roof edge for a few seconds, or, at most, a few minutes. The PCI submission (Ex. 25–4) states that the use of a safety monitoring system is more appropriate than the use of a conventional fall protection system during grouting operations, because employees would spend far more time exposed to fall hazards while erecting and dismantling a conventional system than they would if they simply proceeded to grout while observed by a safety monitor.

(b) What criteria should OSHA set for a precast concrete construction employer who seeks to establish that it is infeasible to use conventional fall protection systems? How should the Agency require such employers to document the factors (such as the absence of structural members to which conventional systems could be attached) that would preclude the use of conventional fall protection?

Issue 3

The Agency solicits comment on the criteria to be met by the precast concrete construction employers who would use a fall protection plan. Based on the PCI submission of February 12, 1990 (Ex. 25–4), discussed above, OSHA raises the following questions:

(a) Should the fall protection plan be prepared by a "qualified" person, as defined in 29 CFR 1926.32(1)? OSHA notes that "qualified" means, in short, one who "has successfully demonstrated his ability to solve or resolve problems relating to the subject, the work, or the project."

(b) Should any changes to a fall protection plan be approved by a qualified person?

(c) Should a copy of the fall protection plan, with all approved changes, be maintained at the job site?

(d) Should the implementation of the plan be under the supervision of a "competent person"? OSHA notes that PCI states in their submission that "competent person" is used "as defined in applicable federal regulations." Under 29 CFR 1926.32(f) of OSHA's construction standards, a "competent person" is "one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous or dangerous to employee, and who has authorization to take prompt corrective measures to eliminate them."

(e) Should the documentation of the reasons why the use of conventional fall protection systems is infeasible or why their use would pose greater hazards be performed by a competent person?

(f) Should OSHA require that the employer inform all affected employees of any special safety measures a precast concrete construction employer has included in a fall protection plan?

(g) Should OSHA require the employer to provide training that addresses the particular circumstances of precast concrete construction operations which affect employee fall protection?

Issue 4

OSHA notes that the February 12, 1990, PCI submission (Ex. 25–4) provides for the use of "control zone lines" to separate employees installing precast concrete at the leading edge from employees performing other tasks. This approach is very similar to that taken by OSHA in existing 29 CFR 1926.500(g) (guarding of low-pitched roof perimeters during the performance of built-up roofing work) and proposed 29 CFR 1926.501(b)(2) and 29 CFR 1926.502(g). Proposed 29 CFR 1926.501(b)(2) addressed the circumstances in which OSHA would allow employers to control exposure to fall hazards through a controlled access zone. Proposed 29 CFR 1926.502(g) set criteria for employers to follow if control zones were used. Under the proposed criteria, for example, control zones would have to be marked clearly by the use of ropes, wires, tapes, or equivalent materials, attached to supporting stanchions to form control zone lines. In addition, each line would have to be flagged or otherwise clearly marked at not more than 6-foot (1.8 m) intervals with high-visibility material and each line shall be rigged and supported in such a way that its lowest point (including sag) is not less than 39 inches (1 m) from the walking/working surface and its highest point is not more than 45 inches (1.3m). Finally, each line would have to have a minimum tensile strength of 200 pounds (91 kg). OSHA solicits comments, with supporting information, on the extent to which the control zones systems currently used by the precast concrete construction industry would comply with proposed 29 CFR 1926.502(g). In addition, if such control zone systems do not comply with proposed 29 CFR 1926.502(g), OSHA requests information as to whether and how such systems provide protection equivalent to that provided by systems that comply with proposed 29 CFR 1926.502(g).

Issue 5

What would be the impact on the precast concrete construction industry if OSHA allowed precast concrete construction employers to implement fall protection plans, under which an employer could, where appropriate, use controlled access zones and safety monitoring systems, in lieu of conventional systems? To assist the Agency in evaluating this issue, OSHA solicits responses to the following questions:

(a) What types of fall protection are now being used by the precast concrete construction industry?

(b) What fall protection is currently provided to employees who are performing particular precast concrete construction tasks?

(c) To what extent does the size of a precast concrete construction company (e.g., the number of employees or the dollar value of operations) determine the ability to provide conventional fall protection or to implement a fall protection plan?

(d) To what extent do precast concrete construction employers provide 100 percent fall protection for their employees? What are the costs or other impacts of providing such protection? What measures can be taken to control costs without reducing safety?

(e) How many multi-story structures are built with precast concrete each year? What are the average number of workers, length of time, and contract value involved with a precast concrete construction project? To what extent are such "average" numbers representative of all precast concrete construction operations? Insofar as commenters believe that "averages" would not be representative, OSHA requests that they submit project data which would enable the Agency to characterize industry operations accurately.

(f) What percentage of the employees on a precast concrete construction

project work more than six feet above ground level?

(g) To what extent do precast concrete construction employers presently develop fall protection plans for each worksite? What is the cost of developing and implementing such a plan?

(h) To what extent do precast concrete construction employers restrict access to areas which pose potential fall hazards? What means are used to restrict access? Do those employers currently use controlled access zones with lines and stanchions, such as provided in proposed 29 CFR 1926.502(g)? What are the costs of implementing access restrictions?

Issue 6

OSHA notes that the term "precast concrete" is now defined in subpart Q (Concrete and Masonry Construction) of the construction standards to mean concrete members (such as walls, panels, slabs, columns, and beams) which have been formed, cast, and cured prior to final placement in a structure. OSHA believes that it may also be necessary to define this term in subpart M, perhaps with additional examples of precast concrete members, if the Agency promulgates fall protection requirements specifically directed at precast concrete construction.

It may also be appropriate to make the subpart M definition of "precast concrete" different from that in subpart Q, so that it reflects the industry nomenclature for tasks or operations related to precast concrete construction work. OSHA solicits comments and suggestions, with supporting information regarding the need to revise the definition of "precast concrete."

In addition, are there other terms that would be used in the final rule for subpart M to address precast concrete construction which OSHA should define? If so, what definitions should OSHA provide for those terms?

III. Public Participation

Comments

Written comments regarding the issues raised in this notice must be postmarked by (90 days from date of publication in the Federal Register). Four copies of these comments must be submitted to the Docket Office, Docket No. S–260A, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–7894. All materials submitted will be available for inspection and copying at the above address. Materials previously submitted to the Docket for the subpart M rulemaking regarding the issues set forth in this notice need not be resubmitted.

IV. Authority

This document was prepared under the direction of Dorothy L. Strunk, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 31st day of July 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

[FR Doc. 92–18569 Filed 8–4–92; 8:45 am]

BILLING CODE 4510–26–M

federal register

Wednesday
August 5, 1992

Part IX

Department of Justice

Bureau of Prisons

28 CFR Parts 524 and 571

Control, Custody, Care, Treatment and Instruction of Inmates: Classification and Program Review; Petition for Commutation of Sentence; Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 524

Control, Custody, Care, Treatment and Instruction of Inmates; Classification and Program Review

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its rule on Classification and Program Review to specify that a psychology services representative is also ordinarily a member of each classification (unit) team. The intended effect of this amendment is to allow for the continued efficient use of Bureau personnel while continuing to ensure that inmates are classified to the most appropriate level of custody and programming both on admission and upon review of status.

EFFECTIVE DATE: August 5, 1992.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Classification and Program Review. A final rule on this subject was published in the **Federal Register** on July 3, 1991 (56 FR 30676).

The classification (unit) team is responsible for ensuring that inmates are classified to the most appropriate level of custody and programming. Current regulations specify that in institutions with unit management the classification (unit) team shall include, at a minimum, the unit manager, a case manager, a counselor, and, ordinarily, an educational advisor. This amendment specifies that a psychological services representative is also ordinarily a member of the team.

Because this amendment pertains to agency management (specifically the allocation of Bureau staff) and does not impose further restrictions upon inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. The Bureau Prisons has determined that E.O. 12291 does not apply to this rule because the rule pertains to agency management. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 524

Prisoners.

Dated: July 29, 1992.

Thomas R. Kane,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), part 524 in subchapter B of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 524—CLASSIFICATION OF INMATES

1. The authority citation for 28 CFR part 524 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; Title V, Pub. L. 91–452, 84 Stat. 933 (18 U.S.C. Chapter 223); 28 CFR 0.95–0.99.

2. In § 524.11, paragraph (a) is amended by revising the second sentence to read as follows:

§ 524.11 Classification team.

* * * * *

(a) * * * An education advisor and a psychology services representative are also ordinarily members of the team. * * *

* * * * *

[FR Doc. 92–18534 Filed 8–4–92; 8:45 am]

BILLING CODE 4410–05–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 571

Control, Custody, Care, Treatment and Instruction of Inmates; Petition for Commutation of Sentence

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document the Bureau of Prisons is amending its rule on Petition for Commutation of Sentence. This amendment updates the procedures to be followed with regard to placement on the appropriate parole docket following the granting of a petition which may involve parole eligibility. The intended effect of this amendment is to ensure the continued efficient operation of the Bureau.

EFFECTIVE DATE: September 4, 1992.

ADDRESSES: Office of General Counsel, Bureau of Prisons, room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307–3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its rule on Petition for Commutation of Sentence. A final rule on this subject was published in the **Federal Register** of March 5, 1982 (47 FR 9756). This amendment revises the procedures to be followed in paragraph (c) of § 571.41 with regard to placement on the parole docket following the granting of a petition which may involve parole eligibility. Former paragraph (c)(2) of § 571.41 is redesignated as paragraph (c)(1), and former paragraph (c)(1) is redesignated as paragraph (c)(2) and revised to specify that if the commutation grants parole eligibility, the inmate is to be placed on the appropriate parole docket. New paragraph (c)(2) of § 571.41 covers more completely the range of parole eligibility available to the inmate and allows for appropriate agency processing. This amendment also revises the heading of the subpart to read "Subpart E—Petition for Commutation of Sentence".

Because this amendment places no greater restrictions on inmates and deals with agency procedure, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking and opportunity for public comment. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. The Bureau of Prisons has determined that E.O. 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–

354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 571

Prisoners.

Dated: July 29, 1992.

Thomas R. Kane,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), subchapter D of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 571—RELEASE FROM CUSTODY

1. The authority citation for 28 CFR part 571 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3565 and 3568–3569 (Repealed in part as to offenses committed on or after November 1, 1987), 3621, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 and 4201–4218 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5031–5042; 28 U.S.C. 509, 510; U.S. Const., Art. II, Sec. 2; 28 CFR 0.95–0.99, 1.1–1.10.

2. The heading of subpart E is revised to read as follows:

Subpart E—Petition for Commutation of Sentence

3. In § 571.41, paragraphs (c) (1) and (2) are revised to read as follows:

§ 571.41 Procedures.

* * * * *

(c) * * *

(1) If a petition for commutation of sentence is granted, institutional staff shall recalculate the inmate's sentence in accordance with the terms of the commutation order.

(2) If the commutation grants parole eligibility, the inmate is to be placed on the appropriate parole docket.

* * * * *

[FR Doc. 92–18535 Filed 8–4–92; 8:45 am]
BILLING CODE 4410–05–M

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Wednesday, August 5, 1992

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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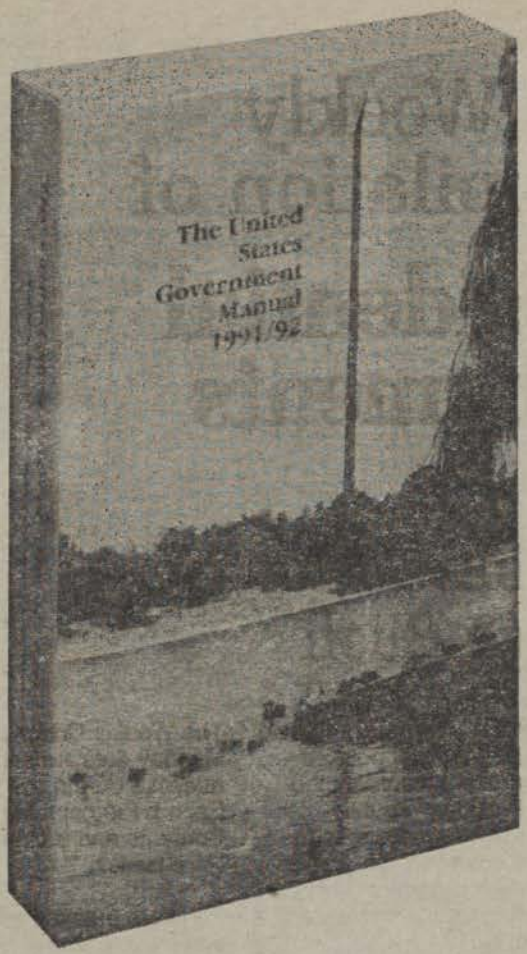

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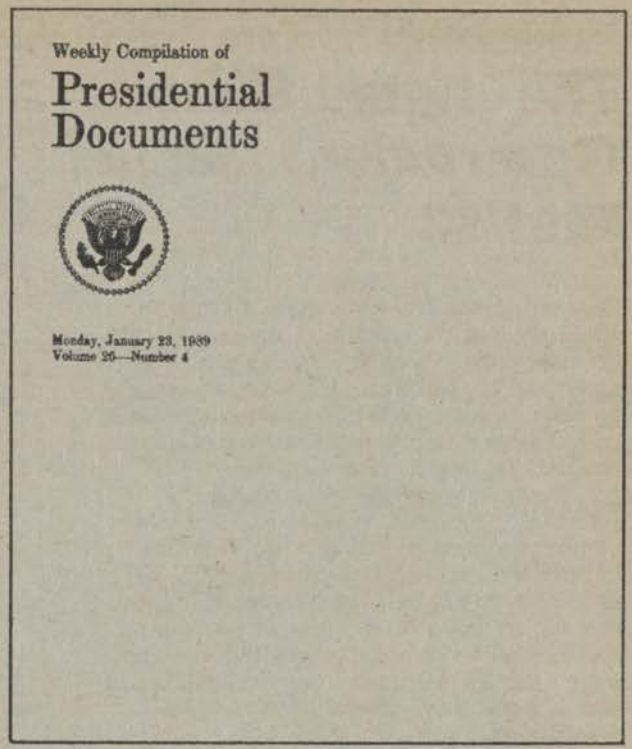

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